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): April 13, 2021

WW INTERNATIONAL, INC.
(Exact name of registrant as specified in its charter)

Virginia	001-16769	11-6040273
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)

675 Avenue of the Americas, 6th Floor, New York, New York	10010
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: (212) 589-2700

Not Applicable
(Former name or former address, if changed since last report)

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

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, no par value	**WW**	**The Nasdaq Stock Market LLC**

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

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. ☐

Item 1.01 Entry into a Material Definitive Agreement.

New Credit Agreement

On April 13, 2021 (the "Closing Date"), WW International, Inc. (the "Company") entered into a credit agreement (the "Credit Agreement") among the Company, as borrower, the lenders party thereto and Bank of America, N.A. ("Bank of America"), as administrative agent and an issuing bank. The Credit Agreement provides for senior secured financing of $1,175.0 million in the aggregate, consisting of (1) $1,000.0 million in aggregate principal amount of senior secured tranche B term loans maturing in seven years (the "New Term Loan Facility") and (2) a $175.0 million senior secured revolving credit facility (which includes borrowing capacity available for letters of credit) maturing in five years (the "New Revolving Credit Facility" and, together with the New Term Loan Facility, the "New Credit Facilities").

All obligations under the Credit Agreement are guaranteed by, subject to certain exceptions, each of the Company's current and future wholly-owned material domestic restricted subsidiaries. All obligations under the Credit Agreement, and the guarantees of those obligations, are secured by substantially all of the assets of the Company and each guarantor, subject to customary exceptions, including:

- a pledge of 100% of the equity interests directly held by the Company and each guarantor in any wholly-owned material subsidiary of the Company or any guarantor (which pledge, in the case of any non-U.S. subsidiary of a U.S. subsidiary, will not include more than 65% of the voting stock of such non-U.S. subsidiary), subject to certain exceptions; and
- a security interest in substantially all other tangible and intangible assets of the Company and each guarantor, subject to certain exceptions.

The New Credit Facilities will require the Company to prepay outstanding term loans, subject to certain exceptions, with:

- 50% (which percentage will be reduced to 25% and 0% if the Company attains certain first lien secured net leverage ratios) of the Company's annual excess cash flow;
- 100% of the net cash proceeds of certain non-ordinary course asset sales by the Company and its restricted subsidiaries (including casualty and condemnation events, subject to de minimis thresholds), and subject to the right to reinvest 100% of such proceeds, subject to certain qualifications; and
- 100% of the net proceeds of any issuance or incurrence of debt by the Company or any of its restricted subsidiaries, other than certain debt permitted under the Credit Agreement.

The foregoing mandatory prepayments will be used to reduce the installments of principal on the New Term Loan Facility. The Company may voluntarily repay outstanding loans under the New Credit Facilities at any time without premium or penalty, except (1) for customary "breakage" costs with respect to LIBOR loans under the New Credit Facilities and (2) during the six months following the Closing Date, with respect to certain voluntary prepayments or refinancings of the New Term Loan Facility that reduce the effective yield of the New Term Loan Facility, which will be subject to a 1.00% prepayment premium.

Borrowings under the New Term Loan Facility will bear interest at a rate per annum equal to, at the Company's option, either (1) an applicable margin plus a base rate determined by reference to the highest of (a) 0.50% per annum plus the Federal Funds Effective Rate as determined by the Federal Reserve Bank of New York, (b) the prime rate of Bank of America and (c) the LIBOR rate determined by reference to the cost of funds for U.S. dollar deposits for an interest period of one month adjusted for certain additional costs, plus 1.00%; provided that such rate is not lower than a floor of 1.50% or (2) an applicable margin plus a LIBOR rate determined by reference to the cost of funds for U.S. dollar deposits for the interest period relevant to such borrowing adjusted for certain additional costs, provided that LIBOR is not lower than a floor of 0.50%. Borrowings under the New Revolving Credit Facility will bear interest at a rate per annum equal to an applicable margin based upon a leverage-based pricing grid, plus, at the Company's option, either (1) a base rate determined by reference to the highest of (a) 0.50% per annum plus the Federal Funds Effective Rate as determined by the Federal Reserve Bank of New York,

(b) the prime rate of Bank of America and (c) the LIBOR rate determined by reference to the cost of funds for U.S. dollar deposits for an interest period of one month adjusted for certain additional costs, plus 1.00%; provided that such rate is not lower than a floor of 1.00% or (2) a LIBOR rate determined by reference to the cost of funds for U.S. dollar deposits for the interest period relevant to such borrowing adjusted for certain additional costs, provided such rate is not lower than a floor of zero. As of the date hereof, the applicable margins for the LIBOR rate borrowings under the New Term Loan Facility and the New Revolving Credit Facility are 3.50% and 2.50%, respectively.

The Credit Agreement contains other customary terms, including (1) representations, warranties and affirmative covenants, (2) negative covenants, including limitations on indebtedness, liens, mergers, acquisitions, asset sales, investments, distributions, prepayments of subordinated debt, amendments of material agreements governing subordinated indebtedness, changes to lines of business and transactions with affiliates, in each case subject to baskets, thresholds and other exceptions, and (3) customary events of default.

The availability of certain baskets and the ability to enter into certain transactions will also be subject to compliance with certain financial ratios. In addition, the New Revolving Credit Facility will include a maintenance covenant that will require, in certain circumstances, compliance with certain first lien secured net leverage ratios.

The foregoing description of the Credit Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Credit Agreement, which is filed as Exhibit 10.1 hereto and is incorporated by reference herein.

The Notes and the Indenture

On the Closing Date, the Company closed its previously announced offering of $500.0 million in aggregate principal amount of its 4.500% Senior Secured Notes due 2029 (the "Notes") in a private offering that is exempt from registration under the Securities Act of 1933, as amended.

The Notes were issued pursuant to an Indenture, dated the Closing Date (the "Indenture"), among the Company, the guarantors named therein and The Bank of New York Mellon, as trustee and notes collateral agent. The Indenture contains customary terms, events of default and covenants for an issuer of non-investment grade debt securities. These covenants include limitations on indebtedness, liens, mergers, acquisitions, asset sales, investments, distributions, prepayments of subordinated debt and transactions with affiliates, in each case subject to baskets, thresholds and other exceptions.

The Notes accrue interest at a rate per annum equal to 4.500% and will mature on April 15, 2029. Interest on the Notes is payable semi-annually on April 15 and October 15 of each year, beginning on October 15, 2021. On or after April 15, 2024, the Company may on any one or more occasions redeem some or all of the Notes at a purchase price equal to 102.250% of the principal amount of the Notes, plus accrued and unpaid interest, if any, to, but not including, the redemption date, such optional redemption price decreasing to 101.125% on or after April 15, 2025 and to 100.000% on or after April 15, 2026. Prior to April 15, 2024, the Company may on any one or more occasions redeem up to 40% of the aggregate principal amount of the Notes with an amount not to exceed the net proceeds of certain equity offerings at 104.500% of the aggregate principal amount thereof, plus accrued and unpaid interest, if any, to, but not including, the redemption date. Prior to April 15, 2024, the Company may redeem some or all of the Notes at a make-whole price plus accrued and unpaid interest, if any, to, but not including, the redemption date. In addition, during any twelve-month period ending prior to April 15, 2024, the Company may redeem up to 10% of the aggregate principal amount of the Notes at a purchase price equal to 103.000% of the principal amount of the Notes to be redeemed, plus accrued and unpaid interest, if any, to, but excluding, the redemption date. If a change of control occurs, the Company must offer to purchase for cash the Notes at a purchase price equal to 101% of the principal amount of the Notes, plus accrued and unpaid interest, if any, to, but not including, the purchase date. Following the sale of certain assets and subject to certain conditions, the Company must offer to purchase for cash the Notes at a purchase price equal to 100% of the principal amount of the Notes, plus accrued and unpaid interest, if any, to, but not including, the purchase date.

The Notes are guaranteed on a senior secured basis by the Company's subsidiaries that guarantee the New Credit Facilities. The Notes and the note guarantees are secured by a first-priority lien on all the collateral that secures the New Credit Facilities, subject to a shared lien of equal priority with the Company's and each guarantor's obligations under the New Credit Facilities and subject to certain thresholds, exceptions and permitted liens.

The foregoing descriptions of the Indenture and the Notes do not purport to be complete and are qualified in their entirety by reference to the full text of the Indenture and the form of Note, which are filed as Exhibits 4.1 and 4.2, respectively, hereto and are incorporated by reference herein.

Equal Priority Intercreditor Agreement

On the Closing Date, the Company, the guarantors party thereto, Bank of America, N.A., as collateral agent under the New Credit Facilities (the "Credit Facilities Collateral Agent") and The Bank of New York Mellon, as collateral agent under the Notes (the "Notes Collateral Agent" and, together with the Credit Facilities Collateral Agent, the "Collateral Agents") entered into the Equal Priority Intercreditor Agreement to govern the relative priorities of the Collateral Agents and their respective security interests in the collateral securing the New Credit Facilities and the Notes and certain other matters related to the administration of security interests in such collateral.

The foregoing description of the Equal Priority Intercreditor Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Equal Priority Intercreditor Agreement, which is filed as Exhibit 10.2 hereto and is incorporated by reference herein.

Item 1.02 Termination of a Material Definitive Agreement.

On the Closing Date, in connection with the closing of the Credit Agreement and the Notes, the Company (i) repaid in full approximately $1.2 billion of borrowings under the Credit Agreement, dated as of November 29, 2017, by and among the Company, as borrower, the lenders from time to time party thereto, JPMorgan Chase Bank, N.A., as the administrative agent and an issuing bank, Bank of America, N.A., as an issuing bank, and Citibank, N.A., as an issuing bank (as amended from time to time, the "Old Credit Agreement") and (ii) redeemed all of the $300.0 million aggregate principal amount of its 8.625% Senior Notes outstanding under the Indenture, dated as of November 29, 2017, among the Company, the guarantors party thereto and The Bank of New York Mellon, as trustee (as amended from time to time, the "Old Indenture"). The term loan and revolving credit facilities and related agreements and documents under the Old Credit Agreement were terminated, and the Old Indenture and the Company's and guarantors' obligations thereunder were satisfied and discharged, upon the effectiveness of the Credit Agreement and the Notes. For more information about the Old Credit Agreement and the Old Indenture, see the information under the heading "Liquidity and Capital Resources—Long-Term Debt" under "Part II, Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations" in the Company's Annual Report on Form 10-K for the fiscal year ended January 2, 2021, as amended, which information is incorporated by reference herein.

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

The description above under Item 1.01 is incorporated in this Item 2.03 by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit	Description
Exhibit 4.1	Indenture, dated as of April 13, 2021, among WW International, Inc., the guarantors party thereto and The Bank of New York Mellon, as trustee and notes collateral agent, relating to the Notes.
Exhibit 4.2	Form of Note (included in Exhibit 4.1).
Exhibit 10.1	Credit Agreement, dated as of April 13, 2021, among WW International, Inc., as borrower, the lenders party thereto and Bank of America, N.A., as administrative agent and issuing bank.
Exhibit 10.2	Equal Priority Intercreditor Agreement, dated as of April 13, 2021, among WW International, Inc., the guarantors party thereto, Bank of America, N.A., as collateral agent under the Credit Agreement and The Bank of New York Mellon, as notes collateral agent.
Exhibit 104	The cover page from this Current Report on Form 8-K, formatted in Inline XBRL.

SIGNATURE

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

WW INTERNATIONAL, INC.

DATED: April 13, 2021

By: /s/ Amy O'Keefe
Name: Amy O'Keefe
Title: Chief Financial Officer

Exhibit 4.1

Execution Version

WW INTERNATIONAL, INC.

as Issuer,

the Guarantors named herein

and

THE BANK OF NEW YORK MELLON

as Trustee and Notes Collateral Agent,

INDENTURE

Dated as of April 13, 2021

$500,000,000

4.500% Senior Secured Notes due 2029

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APPENDIX & EXHIBITS

INDENTURE, dated as of April 13, 2021 (this "Indenture"), among WW INTERNATIONAL, INC., a Virginia corporation ("Issuer"), the Guarantors (as defined herein) listed on the signature pages hereto and THE BANK OF NEW YORK MELLON, as Trustee and Notes Collateral Agent.

RECITALS OF THE ISSUER

The Issuer has duly authorized the creation of an issue of 4.500% Senior Secured Notes due 2029 issued on the date hereof (the "*Initial Notes*") and to provide therefor each of the Issuer and the Guarantors has duly authorized the execution and delivery of this Indenture.

All things necessary have been done to make the Notes, when executed by the Issuer and authenticated and delivered hereunder and duly issued by the Issuer, the valid and legally binding obligations of the Issuer and to make this Indenture a valid and legally binding agreement of each of the Issuer and the Guarantors, in accordance with their and its terms.

Each of the parties hereto is entering into this Indenture for the benefit of the other parties and for the equal and ratable benefit of the Holders (as defined below) of (i) the Issuer's Initial Notes and (ii) any Additional Notes (as defined herein) that may be issued from time to time under this Indenture.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

For and in consideration of the premises and the purchase of the Notes by the Holders thereof, it is mutually covenanted and agreed, for the equal and ratable benefit of all Holders, as follows:

ARTICLE ONE

DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

SECTION 1.01. Rules of Construction.

(a) For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(1) the terms defined in this Article have the meanings assigned to them in this Article, and words in the singular include the plural and words in the plural include the singular;

(2) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with GAAP (as herein defined);

(3) the words "herein", "hereof" and "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision;

(4) all references to Articles, Sections, Exhibits and Appendices shall be construed to refer to Articles and Sections of, and Exhibits and Appendices to, this Indenture;

(5) "or" is not exclusive;

(6) “including” means including without limitation; and

(7) all references to the date the Notes were originally issued shall refer to the Issue Date.

(b) When calculating the availability under any basket or ratio under this Indenture, in each case in connection with a Limited Condition Transaction, the date of determination of such basket or ratio and of any Default or Event of Default may, at the option of the Issuer (which election may be made on the date of such acquisition), be the date the definitive agreements for such Limited Condition Transaction are entered into (or, in the event that the Limited Condition Transaction is being made by way of a tender offer or scheme of arrangement or similar scheme, the date of the public announcement of such transaction) and such baskets, calculations or ratios shall be calculated with such pro forma adjustments as are appropriate and consistent with the pro forma adjustment provisions set forth in the definition of Fixed Charge Coverage Ratio after giving effect to such Limited Condition Transaction and the other transactions to be entered into in connection therewith (including any incurrence of Liens, Indebtedness and the use of proceeds thereof) as if they occurred at the beginning of the applicable period for purposes of determining the ability to consummate any such Limited Condition Transaction, and, for the avoidance of doubt, (x) if any of such baskets, calculations or ratios are exceeded as a result of fluctuations in such basket or ratio (including due to fluctuations in Consolidated EBITDA or Total Assets of the Issuer or the target company for the Applicable Measurement Period) subsequent to such date of determination and at or prior to the consummation of the relevant Limited Condition Transaction, such baskets, calculations or ratios will not be deemed to have been exceeded as a result of such fluctuations and (y) such baskets, calculations or ratios shall not be tested at the time of consummation of such Limited Condition Transaction or related transactions; provided, however, that (a) if any ratios improve or baskets increase as a result of such fluctuations, such improved ratios or baskets may be utilized and (b) if the Issuer elects to have such determinations occur at the time of entry into such definitive agreement, any such transactions (including the Limited Condition Transaction and any incurrence of Liens, Indebtedness and the use of proceeds thereof in connection therewith) shall be deemed to have occurred on the date such definitive agreement is entered into for purposes of calculating any baskets, calculations or ratios under this Indenture after the date of such agreement and before the consummation of such Limited Condition Transaction unless and until such Limited Condition Transaction has been abandoned, as determined by the Issuer, prior to the consummation thereof. For the avoidance of doubt, if the Issuer has exercised its option pursuant to the foregoing and any Default or Event of Default occurs following the date on which the definitive acquisition agreements for the applicable Limited Condition Transaction were entered into and prior to or on the date of the consummation of such Limited Condition Transaction, any such Default or Event of Default shall be deemed to not have occurred or be continuing for purposes of determining whether any action being taken in connection with such Limited Condition Transaction is permitted under this Indenture.

(c) Any calculation or measure that is determined with reference to the Issuer’s financial statements (including, without limitation, Applicable Measurement Period, Consolidated EBITDA, Consolidated Interest Expense, Consolidated Net Income, Consolidated Secured Debt Ratio, Consolidated Total Debt Ratio, Fixed Charge Coverage Ratio, Fixed Charges, Permitted Receivables Financing, Total Assets and Section 10.10(a)(3)(A)) may be determined with reference to the financial statements of a Parent Entity of the Issuer instead, so long as such Parent Entity does not hold any material assets other than, directly or indirectly, the Equity Interests of the Issuer (as determined in good faith by the Board or senior management of the Issuer).

(d) For purposes of determining any calculation or measure as of any Applicable Calculation Date (including, without limitation, Consolidated EBITDA, Consolidated Interest Expense, Consolidated Net Income, Consolidated Secured Debt Ratio, Consolidated Total Debt Ratio, Fixed Charge Coverage Ratio, Fixed Charges, Permitted Receivables Financing and Total Assets) under this Indenture, the U.S. dollar equivalent amount of any amount denominated in a foreign currency shall be calculated by the Issuer, to the extent not already reflected in U.S. dollars in the relevant financial statements (which may be internal), based on the relevant currency exchange rate in effect as of the end of the most recent fiscal quarter for which internal financial statements are available immediately preceding the Applicable Calculation Date.

SECTION 1.02. Definitions.

"Acceptable Commitment" has the meaning specified in Section 10.17 of this Indenture.

"Acceptable Junior Priority Intercreditor Agreement" means with respect to any Indebtedness secured by a Lien on the Collateral intended to rank junior in priority to the Liens on the Collateral securing the Secured Notes Obligations, a customary intercreditor agreement to which the Controlling Collateral Agent is party and in form and substance reasonably acceptable to the Controlling Collateral Agent and the Issuer, without consent from any Holder, which agreement shall provide that the Liens on the Collateral securing such Junior Priority Obligations shall rank junior in priority to the Liens on the Collateral securing the Secured Notes Obligations.

"Acquired Indebtedness" means, with respect to any specified Person,

(1) Indebtedness of any other Person existing at the time such other Person is merged, consolidated or amalgamated with or into or became a Restricted Subsidiary of such specified Person, including Indebtedness incurred in connection with, or in contemplation of, such other Person merging, consolidating or amalgamating with or into or becoming a Restricted Subsidiary of such specified Person; and

(2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

"Act," when used with respect to any Holder, has the meaning specified in Section 1.05 of this Indenture.

"Additional Assets" means (1) any property or other assets used or useful in a Similar Business, (2) the Capital Stock of a Person that becomes a Restricted Subsidiary of the Issuer as a result of the acquisition of such Capital Stock by the Issuer or another Restricted Subsidiary or (3) Capital Stock constituting a minority interest in any Person that at such time is a Restricted Subsidiary of the Issuer; *provided*, *however*, that any Restricted Subsidiary described in clause (2) or (3) above is engaged in a Similar Business.

"Additional Equal Priority Obligations" means the Obligations with respect to any Indebtedness having, or intended to have, Equal Lien Priority (but without regard to the control of remedies) relative to the Notes with respect to the Collateral; provided that an authorized representative of the holders of such Indebtedness shall have executed a joinder to the Equal Priority Intercreditor Agreement (or entered into such other intercreditor agreement having substantially similar terms as the Equal Priority Intercreditor Agreement, taken as a whole).

"Additional Equal Priority Secured Parties" means the holders of any Additional Equal Priority Obligations and any trustee, authorized representative or agent of such Additional Equal Priority Obligations.

"Additional Notes" means any Notes issued by the Issuer pursuant to Section 3.13.

"Adjusted Net Assets" has the meaning specified in Section 12.05 of this Indenture.

"Advance Offer" has the meaning specified in Section 10.17 of this Indenture.

"Advance Portion" has the meaning specified in Section 10.17 of this Indenture.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlling," "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise.

"Affiliate Transaction" has the meaning specified in Section 10.13 of this Indenture.

"Agent" means any Note Registrar, Transfer Agent, co-registrar, Paying Agent or other agent appointed in accordance with this Indenture to perform any function that this Indenture authorized such agent to perform.

"Appendix" has the meaning specified in Section 2.01 of this Indenture.

"Applicable Calculation Date" means the applicable date of determination for (i) Consolidated Secured Debt Ratio, (ii) Consolidated Total Debt Ratio, (iii) Fixed Charge Coverage Ratio, (iv) Consolidated EBITDA or (v) Total Assets.

"Applicable Measurement Period" means the most recently completed four consecutive fiscal quarters of the Issuer immediately preceding the Applicable Calculation Date for which internal financial statements are available.

"Applicable Premium" means, with respect to any Note on any Redemption Date, the greater of:

(1) 1.0% of the principal amount of such Note; and

(2) the excess, if any, of (a) the present value at such Redemption Date of (i) the redemption price of such Note at April 15, 2024 (such redemption price being set forth in the table appearing in Section 11.01), plus (ii) all required interest payments due on such Note through April 15, 2024 (excluding accrued but unpaid interest to the Redemption Date), computed by the Issuer on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) using a discount rate equal to the Treasury Rate as of such Redemption Date plus 50 basis points; over (b) the principal amount of such Note.

Calculation of the Applicable Premium will be made by the Issuer; *provided* that such calculation or the correctness thereof shall not be a duty or obligation of the Trustee.

"Applicable Premium Deficit" has the meaning specified in Section 4.01 of this Indenture.

"Asset Sale" means:

(1) the sale, conveyance, transfer or other disposition, whether in a single transaction or a series of related transactions, of property or assets (including by way of a Sale and Lease-Back Transaction) of the Issuer or any of its Restricted Subsidiaries (each referred to in this definition as a "disposition"); or

(2) the issuance or sale of Equity Interests of any Restricted Subsidiary (other than Preferred Stock of Restricted Subsidiaries issued in compliance with Section 10.11), whether in a single transaction or a series of related transactions, in each case, other than:

(a) any disposition of Cash Equivalents or Investment Grade Securities or obsolete, damaged, unnecessary, unsuitable or worn out property or equipment or other assets, in each case, in the ordinary course of business, or any disposition of inventory, immaterial assets or goods (or other assets), property or equipment held for sale or no longer used or useful in, or economically practicable to maintain in the conduct of, the business of the Issuer and any of its Subsidiaries;

(b) the disposition of all or substantially all of the assets of the Issuer or any Restricted Subsidiary in a manner permitted pursuant to Article Eight or any disposition that constitutes a Change of Control pursuant to this Indenture;

(c) any disposition, issuance or sale in connection with the making of any Restricted Payment that is permitted to be made, and is made, under Section 10.10 or any Permitted Investment;

(d) any disposition of property or assets, or issuance or sale of Equity Interests of any Restricted Subsidiary, in any single transaction or series of related transactions with an aggregate fair market value of less than the greater of (x) $50.0 million and (y) 15.0% of Consolidated EBITDA of the Issuer and its Restricted Subsidiaries as of the end of the Applicable Measurement Period;

(e) any disposition of property or assets, or issuance of securities by a Restricted Subsidiary, to the Issuer or by the Issuer or a Restricted Subsidiary to another Restricted Subsidiary;

(f) any disposition of property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property, (ii) an amount equal to the Net Proceeds of such disposition are promptly applied to the purchase price of similar replacement property or (iii) to the extent allowable under Section 1031 of the Code, or any comparable or successor provision, any exchange of like property (excluding any boot thereon) for use in a Similar Business;

(g) the lease, assignment, sublease, license or sublicense of any real or personal property (including the provision of software under an open source license) in the ordinary course of business or consistent with past practice;

(h) any issuance, sale or pledge of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary;

(i) foreclosures, condemnation, expropriation, forced dispositions, eminent domain or any similar action (whether by deed in lieu of condemnation or otherwise) with respect to assets or the granting of Liens not prohibited by this Indenture, and transfers of any property that have been subject to a casualty to the respective insurer of such property as part of an insurance settlement or upon receipt of the net proceeds of such casualty event;

(j) sales or discounts (with or without recourse) (including by way of assignment or participation) of (i) accounts receivable, or participations therein, in connection with the collection or compromise thereof (including sales to factors or other third parties) and (ii) receivables, or participations therein, and related assets, or any disposition of the Equity Interests in a Subsidiary, all or substantially all of the assets of which are receivables, or participations therein, and related assets, pursuant to any Permitted Receivables Financing;

(k) [reserved];

(l) any surrender or waiver of contractual rights or the settlement, release or surrender of contractual rights or other litigation claims in the ordinary course of business or consistent with past practice;

(m) the sale, lease, assignment, license, sublease or discount of inventory, equipment, accounts receivable, notes receivable or other assets in the ordinary course of business or consistent with past practice or the conversion of accounts receivable for notes receivable or other dispositions of accounts receivable in connection with the collection or compromise thereof;

(n) the licensing, sub-licensing or cross-licensing of intellectual property or other general intangibles in the ordinary course of business or consistent with past practice or that is immaterial;

(o) the unwinding of any Hedging Obligations or Cash Management Obligations;

(p) sales, transfers and other dispositions of Investments in joint ventures to the extent required by, or made pursuant to, customary buy/sell arrangements between the joint venture parties set forth in joint venture arrangements and similar binding arrangements;

(q) the lapse, abandonment or invalidation of intellectual property rights, which in the reasonable determination of the Board of the Issuer or the senior management thereof are not material to the conduct of the business of the Issuer and its Restricted Subsidiaries, taken as a whole, or are no longer used or useful or no longer economically practicable or commercially reasonable to maintain;

(r) the issuance of directors' qualifying shares and shares issued to foreign nationals or other third parties as required by applicable law;

(s) the disposition of any assets (including Equity Interests) (i) acquired in a transaction, which assets are not used or useful in the core or principal business of the Issuer and its Restricted Subsidiaries, or (ii) made in connection with the approval of any applicable antitrust authority or otherwise necessary or advisable in the good faith determination of the Issuer to consummate any acquisition; and

(t) any disposition of property or assets of a Foreign Subsidiary the Net Proceeds of which the Issuer has determined in good faith that the repatriation of such Net Proceeds (i) is prohibited or subject to limitations under applicable law, orders, decrees or determinations of any arbitrator, court or governmental authority or (ii) would have a material adverse tax consequence (taking into account any foreign tax credit or benefit actually realized in connection with such repatriation); *provided* that when the Issuer determines in good faith that repatriation of any of such Net Proceeds (i) is no longer prohibited or subject to limitations under such applicable law, orders, decrees or determinations of any arbitrator, court or governmental authority or (ii) would no longer have a material adverse tax consequence (taking into account any foreign tax credit or benefit actually realized in connection with such repatriation), such amount at such time shall be considered the Net Proceeds in respect of an Asset Sale.

In the event that a transaction (or any portion thereof) meets the criteria of a permitted Asset Sale and would also be a permitted Restricted Payment or Permitted Investment, the Issuer, in its sole discretion, will be entitled to divide and classify such transaction (or a portion thereof) as an Asset Sale and/or one or more of the types of permitted Restricted Payments or Permitted Investments.

"Asset Sale Offer" has the meaning specified in Section 10.17(c) of this Indenture.

"Asset Sale Proceeds Application Period" has the meaning specified in Section 10.17(b) of this Indenture.

"Bankruptcy Code" means Title 11 of the United States Bankruptcy Code of 1978, as amended.

"Bankruptcy Law" means the Bankruptcy Code and any similar federal, state or foreign law for the relief of debtors.

"Board" with respect to a Person means the board of directors (or similar body) of such Person or any committee thereof duly authorized to act on behalf of such board of directors (or similar body).

"Board Resolution" means a duly adopted resolution of the Board or any committee of such Board.

"Business Day" means each day which is not a Legal Holiday.

"Capital Stock" means:

(1) in the case of a corporation, corporate stock;

(2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;

(3) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and

(4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

"Capitalized Lease Obligation" means, as applied to any Person, an obligation that is required to be accounted for as a financing or capital lease on both the balance sheet and income statement for financial reporting purposes in accordance with GAAP as in effect on the Issue Date; *provided*, for the avoidance of doubt, a straight-line or operating lease should not be deemed to be a Capitalized Lease Obligation. At the time any determination thereof is to be made, the amount of the liability in respect of a financing or capital lease would be the amount required to be reflected as a liability on such balance sheet (excluding the footnotes thereto) in accordance with GAAP as in effect on the Issue Date.

"Capitalized Software Expenditures" means, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities) by a Person and its Restricted Subsidiaries during such period in respect of purchased software or internally developed software and software enhancements that, in conformity with GAAP, are or are required to be reflected as capitalized costs on the consolidated balance sheet of a Person and its Restricted Subsidiaries.

"Cash Equivalents" means:

(1) United States dollars;

(2) (a) Canadian dollars, Australian dollars, Chinese yuan, Japanese yen, euro, pound sterling or any national currency of any participating member state of the EMU; or

(b) other currencies held by the Issuer and its Restricted Subsidiaries from time to time in the ordinary course of business;

(3) securities issued or directly and fully and unconditionally guaranteed or insured by the U.S. government or any agency or instrumentality thereof as a full faith and credit obligation of the U.S. government, with average maturities of 24 months or less from the date of acquisition;

(4) certificates of deposit, time deposits and eurodollar time deposits with average maturities of one year or less from the date of acquisition, demand deposits, bankers' acceptances with average maturities not exceeding one year and overnight bank deposits, in each case with any commercial bank having capital and surplus of not less than $100.0 million in the case of U.S. banks or other U.S. financial institutions and $100.0 million (or the U.S. dollar equivalent as of the date of determination) in the case of non-U.S. banks or other non-U.S. financial institutions;

(5) repurchase obligations for underlying securities of the types described in clauses (3), (4) and (10) entered into with any financial institution meeting the qualifications specified in clause (4) above;

(6) commercial paper rated at least P-2 by Moody's or at least A-2 by S&P (or, if at any time, neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another Rating Agency) and variable or fixed rate notes issued by any financial institution meeting the qualifications specified in clause (4) above, in each case, with average maturities of 36 months after the date of creation thereof;

(7) marketable short-term money market and similar securities having a rating of at least P-2 or A-2 from either Moody's or S&P, respectively (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another Rating Agency);

(8) investment funds investing at least 90% of their assets in securities of the types described in clauses (1) through (7) above and (9) through (12) below;

(9) securities issued or directly and fully and unconditionally guaranteed by any state, commonwealth or territory of the United States of America or any political subdivision or taxing authority of any such state, commonwealth or territory or any public instrumentality thereof having average maturities of not more than 36 months from the date of acquisition thereof;

(10) readily marketable direct obligations issued or directly and fully and unconditionally guaranteed by any foreign government or any political subdivision or public instrumentality thereof, in each case (other than in the case of such securities issued or guaranteed by any participating member state of the EMU) having an Investment Grade Rating from either Moody's or S&P (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another Rating Agency) with average maturities of 36 months or less from the date of acquisition;

(11) Indebtedness or Preferred Stock issued by Persons with a rating of "A" or higher from S&P or "A2" or higher from Moody's (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another Rating Agency) with average maturities of 36 months or less from the date of acquisition;

(12) Investments with average maturities of 36 months or less from the date of acquisition in money market funds rated A (or the equivalent thereof) or better by S&P or A2 (or the equivalent thereof) or better by Moody's (or, if at any time, neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another Rating Agency);

(13) in the case of investments by any Foreign Subsidiary of the Issuer, investments for cash management purposes of comparable tenor and credit quality to those described in the foregoing clauses (1) through (12) customarily utilized in countries in which such Foreign Subsidiary operates; and

(14) investments, classified in accordance with GAAP as current assets, in money market investment programs that are registered under the Investment Company Act of 1940 or that are administered by financial institutions meeting the qualifications specified in clause (4) above, and, in either case, the portfolios of which are limited such that substantially all of such investments are of the character, quality and maturity described in clauses (1) through (13) of this definition.

Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in currencies other than those set forth in clauses (1) and (2) above; *provided* that such amounts are converted into any currency listed in clauses (1) and (2) as promptly as practicable and in any event within ten Business Days following the receipt of such amounts.

For the avoidance of doubt, any items identified as Cash Equivalents under this definition will be deemed to be Cash Equivalents under this Indenture regardless of the treatment of such items under GAAP.

"Cash Management Obligations" means (1) obligations of the Issuer or any of its Restricted Subsidiaries in respect of any overdraft and related liabilities arising from treasury, depository, cash pooling arrangements and cash management or treasury services or any automated clearing house transfers of funds, (2) other obligations in respect of netting services, employee credit or purchase card programs and similar arrangements and (3) obligations in respect of any other services related, ancillary or complementary to the foregoing (including any overdraft and related liabilities arising from treasury, depository, cash pooling arrangements and cash management services, corporate credit and purchasing cards and related programs or any automated clearing house transfers of funds).

"CFC" means a "controlled foreign corporation" within the meaning of Section 957 of the Code and any direct or indirect Subsidiary thereof.

"Change of Control" means the occurrence of one or more of the following events after the Issue Date:

(1) the sale, lease or transfer, in one or a series of related transactions, of all or substantially all of the assets of the Issuer and its Subsidiaries, taken as a whole, to any Person other than any Permitted Holders; or

(2) the Issuer becomes aware of (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) the acquisition by any Person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act), including any group acting for the purpose of acquiring, holding or disposing of Equity Interests of the Issuer (within the meaning of Rule 13d-5(b)(1) under the Exchange Act), other than the Permitted Holders, in a single transaction or in a related series of transactions, by way of merger, consolidation or other business combination or purchase, of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act) of more than 50% of the total voting power of the Voting Stock of the Issuer, unless the Permitted Holders otherwise have the right (pursuant to contract, proxy or otherwise), directly or indirectly, to designate or appoint a majority of the directors of the Issuer.

Notwithstanding anything to the contrary in this definition or any provision of Section 13d-3 of the Exchange Act, (i) a Person or group shall not be deemed to beneficially own Voting Stock (x) to be acquired by such Person or group pursuant to a stock or asset purchase agreement, merger agreement, option agreement, warrant agreement or similar agreement (or voting or option or similar agreement related thereto) until the consummation of the acquisition of the Voting Stock in connection with the transactions contemplated by such agreement or (y) solely as a result of veto or approval rights in any joint venture agreement, shareholder agreement, investor rights agreement or other similar agreement, (ii) if any group (other than a Permitted Holder) includes one or more Permitted Holders, the issued and outstanding Voting Stock of the Issuer owned, directly or indirectly, by any Permitted Holders that are part of such group shall not be treated as being beneficially owned by such group or any other member of such group for purposes of determining whether a Change of Control has occurred, (iii) a Person or group (other than Permitted Holders) will not be deemed to beneficially own the Voting Stock of another Person as a result of its ownership of Capital Stock or other securities of such other Person's Parent Entity (or related contractual rights) unless it owns more than 50.0% of the total voting power of the Voting Stock of such Person's Parent Entity and (iv) the right to acquire Voting Stock (so long as such Person does not have the right to direct the voting of the Voting Stock subject to such right) or any veto power in connection with the acquisition or disposition of Voting Stock will not cause a party to be a beneficial owner.

"Change of Control Offer" has the meaning specified in Section 10.16(a) of this Indenture.

"Change of Control Payment" has the meaning specified in Section 10.16(a) of this Indenture.

"Change of Control Payment Date" has the meaning specified in Section 10.16(a) of this Indenture.

"Code" means the Internal Revenue Code of 1986, as amended, or any successor thereto.

"Collateral" means all of the assets and property of the Issuer or any Guarantor, whether real, personal or mixed, securing or purported to secure any Secured Notes Obligations, other than Excluded Assets.

"Collateral Agent" means (1) in the case of any Senior Credit Facility Obligations, the Senior Credit Facilities Collateral Agent, (2) in the case of the Secured Notes Obligations, the Notes Collateral Agent and (3) in the case of any Additional Equal Priority Obligations, the collateral agent, administrative agent or the trustee with respect thereto.

"consolidated" or "Consolidated" means, with respect to any Person, such Person on a consolidated basis in accordance with GAAP, but excluding from such consolidation any Unrestricted Subsidiary as if such Unrestricted Subsidiary were not an Affiliate of such Person.

"Consolidated EBITDA" means, as of any Applicable Calculation Date, with respect to any Person for any period, the Consolidated Net Income of such Person for such period, *plus*:

(1) without duplication and to the extent already deducted (and not added back) or not included in arriving at such Consolidated Net Income, the sum of the following amounts for such period:

(a) Fixed Charges of such Person for such period and, to the extent not reflected in Fixed Charges, any losses on Hedging Obligations or other derivative instruments entered into for the purpose of hedging interest rate risk, net of interest income and gains on such Hedging Obligations or such derivative instruments, and bank and letter of credit fees, debt rating monitoring fees and costs of surety bonds in connection with financing activities, plus items excluded from the definition of "Consolidated Interest Expense" pursuant to clauses (a) through (n) thereof,

(b) provision for taxes based on income, profits, revenue or capital, including federal, foreign and state income, franchise, excise, value added and similar taxes based on income, profits, revenue or capital, and foreign withholding taxes of such Person paid or accrued during such period (including in respect of repatriated funds), including any future taxes or other levies which replace or are intended to be in lieu of such taxes and any penalties and interest relating to such taxes or arising from any tax examinations, and the net tax expense associated with any adjustment made pursuant to clauses (1) through (18) of the definition of "Consolidated Net Income" and (without duplication) any payments to a Parent Entity pursuant to Section 10.10(b)(13) in respect of such taxes,

(c) the total amount of depreciation and amortization expense (including amortization of deferred financing fees or costs, internal labor costs, debt issuance costs, commissions, fees and expenses, capitalized expenditures (including Capitalized Software Expenditures), customer acquisition costs and incentive payments, conversion costs and contract acquisition costs) and intangible assets established through purchase accounting of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP,

(d) any other non-cash charges, including any write offs, write downs, expenses, losses or items and any non-cash impact of recapitalization or purchase accounting and accounting changes or restatements (*provided*, in each case, that if any non-cash charges represent an accrual or reserve for potential cash items in any future period, (A) such Person may elect not to add back such non-cash charges in the current period and (B) to the extent such Person elects to add back such non-cash charges in the current period, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA to such extent, and excluding amortization of a prepaid cash item that was paid in a prior period),

(e) the amount of any non-controlling interest consisting of income attributable to non-controlling interests of third parties in any non-Wholly-Owned Subsidiary deducted (and not added back) in such period in calculating Consolidated Net Income, excluding cash distributions in respect thereof,

(f) (i) any charges, costs, expenses, accruals or reserves in connection with the rollover or acceleration of Equity Interests held by directors, officers, managers and/or employees of such Person or any of its Restricted Subsidiaries or Parent Entities, in each case, to the extent deducted (and not added back) in computing Consolidated Net Income for such period and (ii) the amount of fees, expenses and indemnities paid to directors, including of the Issuer or any Parent Entity thereof,

(g) losses or discounts on sales of receivables and related assets in connection with any Permitted Receivables Financing,

(h) cash receipts (or any netting arrangements resulting in reduced cash expenditures) not included in the calculation of Consolidated Net Income in any period to the extent non-cash gains relating to such income were deducted in the calculation of Consolidated EBITDA pursuant to paragraph (3) below for any previous period and not added back,

(i) any costs or expenses incurred by such Person or any Restricted Subsidiary pursuant to any management equity plan or stock option plan or phantom equity plan or any other management or employee benefit plan or agreement, any severance agreement or any stock subscription or shareholder agreement, to the extent that such costs or expenses are non-cash or otherwise funded with cash proceeds contributed to the capital of such Person or net proceeds of an issuance of Equity Interests of such Person (other than Disqualified Stock),

(j) any net pension or other post-employment benefit costs representing amortization of unrecognized prior service costs, actuarial losses, including amortization of such amounts arising in prior periods, amortization of the unrecognized net obligation (and loss or cost) existing at the date of initial application of FASB Accounting Standards Codification Topic 715—*Compensation—Retirement Benefits*, and any other items of a similar nature,

(k) with respect to any joint venture that is not a Restricted Subsidiary, an amount equal to the proportion of those items described in clauses (b) and (c) above relating to such joint venture corresponding to such Person and its Restricted Subsidiaries' proportionate share of such joint venture's Consolidated Net Income (determined as if such joint venture were a Restricted Subsidiary),

(l) [reserved], *plus*

(m) adjustments consistent with Regulation S-X of the Securities Act, *plus*

(2) without duplication, the amount of "run rate" cost savings, operating expense reductions and synergies related to any Specified Event (as defined below) projected by such Person in good faith to be realized as a result of actions that have been taken or initiated or are expected to be taken (in the good faith determination of such Person), including any cost savings, expenses and charges (including restructuring and integration charges) in connection with, or incurred by or on behalf of, any joint venture of such Person or any of its Restricted Subsidiaries (whether accounted for on the financial statements of any such joint venture or such Person) with respect to any investment, sale, transfer or other disposition of assets, incurrence or repayment or prepayment of Indebtedness, Restricted Payment, New Project, Subsidiary designation, restructuring, cost saving initiative or other initiative (collectively, a "*Specified Event*"), whether initiated, before, on or after the Issue Date, within 24 months after such Specified Event (which cost savings shall be added to Consolidated EBITDA until fully realized and calculated on a pro forma basis as though such cost savings had been realized on the first day of the relevant period), net of the amount of actual benefits realized from such actions; *provided* that (i) such cost savings are reasonably quantifiable and factually supportable (whether or not permitted to be added back under the rules and regulations of the SEC), (ii) no cost savings, operating expense reductions or synergies shall be added pursuant to this clause (2) to the extent duplicative of any expenses or charges relating to such cost savings, operating expense reductions or synergies that are included in clause (1) above (it being understood and agreed that "run rate" shall mean the full recurring benefit that is associated with any action taken) and (iii) the share of any such cost savings, expenses and charges with respect to a joint venture that are to be allocated to such Person or any of its Restricted Subsidiaries shall not exceed the total amount thereof for any such joint venture multiplied by the percentage of income of such venture expected to be included in Consolidated EBITDA for the relevant Applicable Measurement Period;

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(3) without duplication and to the extent included in arriving at such Consolidated Net Income, the sum of the following amounts for such period:

(a) non-cash gains (excluding any non-cash gain to the extent it represents the reversal of an accrual or reserve for a potential cash item that reduced Consolidated Net Income or Consolidated EBITDA in any prior period), and

(b) the amount of any non-controlling interest consisting of loss attributable to non-controlling interests of third parties in any non-Wholly-Owned Subsidiary added (and not deducted) in such period from Consolidated Net Income, in each case, as determined on a consolidated basis for such Person and its Restricted Subsidiaries. For purposes of testing the covenants under this Indenture in connection with any transaction, the Consolidated EBITDA of such Person and its Restricted Subsidiaries shall be adjusted to reflect such pro forma adjustments as are appropriate and consistent with the pro forma adjustment provisions set forth in the definition of Fixed Charge Coverage Ratio (other than as set forth in the first proviso to the first paragraph of such definition).

"Consolidated Interest Expense" means, with respect to any Person and its Restricted Subsidiaries, the sum of (1) cash interest expense (including that attributable to Capitalized Lease Obligations), net of (i) cash interest income and (ii) non-cash interest income resulting from the amortization of original issue premium from the issuance of Indebtedness of such Person and its Restricted Subsidiaries, of such Person and its Restricted Subsidiaries with respect to all outstanding Indebtedness of such Person and its Restricted Subsidiaries, including all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptance financing and net costs under hedging agreements, plus (2) non-cash interest expense resulting solely from (i) the amortization of original issue discount from the issuance of Indebtedness of such Person and its Restricted Subsidiaries at less than par, other than with respect to Indebtedness issued in connection with the Refinancing Transactions, and (ii) pay-in-kind interest expense of such Person and its Restricted Subsidiaries but excluding, for the avoidance of doubt, (a) amortization of deferred financing costs, debt issuance costs, commissions, fees and expenses and any other amounts of non-cash interest other than specifically referred to in clause (2) above (including as a result of the effects of acquisition method accounting or pushdown accounting), (b) non-cash interest expense attributable to the movement of the mark-to-market valuation of Indebtedness or obligations under Hedging Obligations or other derivative instruments pursuant to FASB Accounting Standards Codification Topic 815—*Derivatives and Hedging*, (c) any one-time cash costs associated with breakage in respect of hedging agreements for interest rates, (d) commissions, discounts, yield, make-whole premium and other fees and charges (including any interest expense) incurred in connection with any Permitted Receivables Financing, (e) any cash interest expense consisting of "additional interest" or "special interest" for failure to timely comply with registration rights obligations, (f) any interest expense attributable to the exercise of appraisal rights and the settlement of any claims or actions (whether actual, contingent or potential), with respect thereto and with respect to any acquisition or Investment, (g) any payments with respect to make-whole premiums or other breakage costs of any Indebtedness, (h) penalties and interest relating to taxes, (i) accretion or accrual of discounted liabilities not constituting Indebtedness, (j) any interest expense attributable to a Parent Entity resulting from push-down accounting, (k) any expense resulting from the discounting of Indebtedness in connection with the application of recapitalization or purchase accounting, all as calculated on a consolidated basis in accordance with GAAP, (l) any capitalized interest, whether paid in cash or otherwise, and any other non-cash interest expense, (m) any expensing of bridge, arrangement, structuring, commitment or other financing fees or closing payments (excluding, for the avoidance of doubt, any commitment fees), and (n) any lease, rental or other expense in connection with Non-Capitalized Lease Obligations.

For purposes of this definition, interest on a capital lease shall be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such capital lease in accordance with GAAP.

"Consolidated Net Income" means, with respect to any Person for any period, the aggregate of the net income (loss) of such Person for such period, determined on a consolidated basis, excluding (and excluding the effect of), without duplication:

(1) extraordinary, non-recurring or unusual gains or losses (less all fees and expenses relating thereto) or expenses (including any unusual or non-recurring operating expenses directly attributable to the implementation of cost savings initiatives and any accruals or reserves in respect of any extraordinary, non-recurring or unusual items), severance, relocation costs, integration and plants' or facilities' opening costs and other business optimization expenses (including related to new product or service introductions and other strategic or cost savings initiatives), any expense or charge related to the refresh, renovation or remodeling of stores or new store concepts, restructuring charges, accruals or reserves (including restructuring and integration costs related to acquisitions after the Issue Date and adjustments to existing reserves), whether or not classified as restructuring expense on the consolidated financial statements, signing costs, recruitment, retention or completion bonuses, other executive recruiting and retention costs, transition costs, costs related to closure/consolidation of facilities or bases and curtailments or modifications to pension and post-retirement employee benefit plans (including any settlement of pension liabilities and charges resulting from changes in estimates, valuations and judgments),

(2) the cumulative effect of a change in accounting principles and changes as a result of adoption or modification of accounting policies during such period to the extent included in Consolidated Net Income, whether effective through a cumulative effect adjustment or a retroactive application,

(3) [reserved],

(4) the net income for such period of any Person that is an Unrestricted Subsidiary and any Person that is not a Subsidiary or that is accounted for by the equity method of accounting; *provided* that Consolidated Net Income shall be increased by the amount of dividends or distributions or other payments that are actually paid in cash or Cash Equivalents (or if not paid in cash or Cash Equivalents, but later converted into cash or Cash Equivalents, upon such conversion) by such Person to the referent Person or a Restricted Subsidiary thereof during such period,

(5) any costs, fees and expenses (including any transaction or retention bonus or similar payment) incurred during such period, or any amortization thereof for such period, in connection with any acquisition, Investment, recapitalization, asset disposition, spin-off transaction, issuance or repayment of Indebtedness, issuance of equity securities, refinancing transaction or amendment or other modification of any debt instrument (in each case, including any such transaction consummated prior to the Issue Date and any such transaction undertaken but not completed) and any charges or non-recurring merger costs incurred during such period as a result of any such transaction, in each case whether or not successful (including, for the avoidance of doubt, the effects of expensing all transaction-related expenses in accordance with FASB Accounting Standards Codification Topic 805—*Business Combinations* and gains or losses associated with FASB Accounting Standards Codification Topic 460—*Guarantees*) including (i) such fees, expenses or charges related to the Refinancing Transactions, and (ii) any amendment or other modification of the Notes, the Senior Credit Facilities or other Indebtedness; *plus*,

(6) any income (loss) for such period attributable to the early extinguishment of Indebtedness, Hedging Obligations or other derivative instruments (including deferred financing costs written off and premiums paid),

(7) [reserved],

(8) (i) expenses and costs that result from the issuance, rollover, acceleration or payment of stock-based awards, partnership interest-based awards and similar incentive-based compensation awards or arrangements, including with respect to any profits interest relating to membership interests or partnership interests in any limited liability company or partnership or any such charge or expense arising from grants of stock appreciation or similar rights, options, restricted stock or equity incentive payments and (ii) the amount of payments made to option, phantom equity or profits interests holders of such Person or any of its Parent Entities in connection with, or as a result of, any distribution made to equity holders of such Person or its Parent Entities, which payments are being made to compensate such option, phantom equity or profits interests holders as though they were equity holders at the time of, and entitled to share in, such distribution, including any cash consideration for any repurchase of equity, in each case, to the extent permitted under this Indenture (including expenses relating to distributions made to equity holders of such Person or any of its Parent Entities resulting from the application of FASB Accounting Standards Codification Topic 718—*Compensation*—Stock Compensation),

(9) any income (loss) attributable to deferred compensation plans or trusts,

(10) any gain (loss) on asset sales, disposals or abandonments (other than (i) asset sales, disposals or abandonments in the ordinary course of business and (ii) unless the Issuer otherwise elects, assets held for sale) or income (loss) from discontinued operations (but if such operations are classified as discontinued due to the fact that they are subject to an agreement to dispose of such operations, only when and to the extent such operations are actually disposed of),

(11) any non-cash gain (loss) attributable to the mark to market movement in the valuation of Hedging Obligations or other derivative instruments pursuant to FASB Accounting Standards Codification Topic 815—*Derivatives and Hedging* or mark to market movement of other financial instruments pursuant to FASB Accounting Standards Codification Topic 825—*Financial Instruments* in such period; *provided* that any cash payments or receipts relating to transactions realized in a given period shall be taken into account in such period,

(12) any non-cash gain (loss) related to currency remeasurements of Indebtedness (including with respect to Indebtedness and the net loss or gain resulting from Hedging Obligations for currency exchange risk and revaluations of intercompany balances and other balance sheet items),

(13) any non-cash expenses, accruals or reserves related to adjustments to historical tax exposures (*provided*, in each case, that the cash payment in respect thereof in such future period shall be subtracted from Consolidated Net Income for the period in which such cash payment was made),

(14) any impairment charge or asset write-off or write-down (including related to intangible assets (including goodwill), long-lived assets, and investments in debt and equity securities),

(15) solely for the purpose of determining the amount available for Restricted Payments under Section 10.10(a)(3)(A), the net income for such period of any Restricted Subsidiary (other than any Guarantor) shall be excluded to the extent the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of its net income is not at the date of determination permitted without any prior governmental approval (which has not been obtained) or, directly or indirectly, is otherwise restricted by the operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental

regulation applicable to that Restricted Subsidiary or its stockholders (other than restrictions arising pursuant to an agreement or instrument if the encumbrances and restrictions contained in any such agreement or instrument taken as a whole are not materially less favorable to the Holders than the encumbrances and restrictions contained in this Indenture (as determined by the Issuer in good faith)) unless such restriction with respect to the payment of dividends or similar distributions has been legally waived or released (or the Issuer reasonably believes such restriction could be waived or released and is using commercially reasonable efforts to pursue such waiver or release); *provided* that Consolidated Net Income of such Person will be increased by the amount of dividends or other distributions or other payments actually paid in cash or Cash Equivalents (or, if not paid in cash or Cash Equivalents, but later converted into cash or Cash Equivalents, upon such conversion) to such Person or a Restricted Subsidiary thereof in respect of such period, to the extent not already included therein,

(16) any non-cash interest expense or non-cash interest income, in each case, to the extent that there is no associated cash disbursement or receipt,

(17) realized or unrealized foreign exchange gains or losses resulting from the impact of foreign currency changes on the valuation of assets and liabilities on the balance sheet of such Person and its Restricted Subsidiaries, and

(18) income or expense related to changes in the fair value of contingent liability in connection with earn-out obligations and similar liabilities in connection with any acquisition or Investments permitted under this Indenture.

There shall be excluded from Consolidated Net Income for any period the effects from applying acquisition method or purchase accounting, including applying acquisition method or purchase accounting to inventory, property and equipment, loans and leases, software and other intangible assets and deferred revenue (including deferred costs related thereto and deferred rent) required or permitted by GAAP and related authoritative pronouncements (including the effects of such adjustments pushed down to such Person and its Restricted Subsidiaries), as a result of any acquisition or Investment consummated prior to the Issue Date and any other acquisition (by merger, consolidation, amalgamation or otherwise) or other Investment or the amortization or write-off of any amounts thereof.

In addition, to the extent not already included in Consolidated Net Income, Consolidated Net Income shall include (i) the amount of proceeds received or due from liability, casualty or business interruption insurance or reimbursement of expenses and charges that are covered by indemnification and other reimbursement provisions in connection with any acquisition or other Investment or any disposition of any asset permitted under this Indenture (net of any amount so added back in any prior period to the extent not so reimbursed within a two year period) and (ii) the amount of any cash tax benefits related to the tax amortization of intangible assets in such period.

"Consolidated Secured Debt Ratio" means, as of any Applicable Calculation Date, with respect to any Person and its Restricted Subsidiaries, the ratio of (1) Consolidated Total Indebtedness of such Person and its Restricted Subsidiaries that is secured by a Lien, computed as of the end of the most recent fiscal quarter for which internal financial statements are available immediately preceding the Applicable Calculation Date to (2) such Person's Consolidated EBITDA for the Applicable Measurement Period, in each case with such pro forma adjustments to Consolidated Total Indebtedness and Consolidated EBITDA as are appropriate and consistent with the pro forma adjustment provisions set forth in the definition of Fixed Charge Coverage Ratio; *provided* that, for purposes of the calculation of Consolidated Secured Debt Ratio, in connection with (x) the incurrence of any Indebtedness pursuant to Section 10.11(b)(1) or (y) the incurrence of any Lien pursuant to clause (34) of the definition of

"Permitted Liens," such Person may elect, pursuant to an Officer's Certificate delivered to the Trustee, to treat all or any portion of the commitment (such amount elected until revoked as described below, the "Elected Amount") under any Indebtedness which is to be incurred (or any commitment in respect thereof) or secured by such Lien, as the case may be, as being incurred or secured, as the case may be, as of the Applicable Calculation Date and (i) any subsequent incurrence of such Indebtedness under such commitment that was so treated (so long as the total amount under such Indebtedness does not exceed the Elected Amount) shall not be deemed, for purposes of this calculation, to be an incurrence of additional Indebtedness or an additional Lien at such subsequent time, (ii) such Person may revoke an election of an Elected Amount pursuant to an Officer's Certificate delivered to the Trustee and (iii) for purposes of subsequent calculations of the Consolidated Secured Debt Ratio, the Elected Amount (if any) shall be deemed to be outstanding, whether or not such amount is actually outstanding.

"Consolidated Total Debt Ratio" means, as of any Applicable Calculation Date, with respect to any Person and its Restricted Subsidiaries, the ratio of (1) Consolidated Total Indebtedness of such Person and its Restricted Subsidiaries, computed as of the end of the most recent fiscal quarter for which internal financial statements are available immediately preceding the Applicable Calculation Date to (2) such Person's Consolidated EBITDA for the Applicable Measurement Period, in each case with such pro forma adjustments to Consolidated Total Indebtedness and Consolidated EBITDA as are appropriate and consistent with the pro forma adjustment provisions set forth in the definition of Fixed Charge Coverage Ratio; *provided* that, for purposes of the calculation of Consolidated Total Debt Ratio, in connection with the incurrence of any Indebtedness pursuant to Section 10.11, such Person may elect, pursuant to an Officer's Certificate delivered to the Trustee, to treat an Elected Amount under any Indebtedness which is to be incurred (or any commitment in respect thereof) as being incurred as of the Applicable Calculation Date and (i) any subsequent incurrence of such Indebtedness under such commitment that was so treated (so long as the total amount under such Indebtedness does not exceed the Elected Amount) shall not be deemed, for purposes of this calculation, to be an incurrence of additional Indebtedness at such subsequent time, (ii) such Person may revoke an election of an Elected Amount pursuant to an Officer's Certificate delivered to the Trustee and (iii) for purposes of subsequent calculations of the Consolidated Total Debt Ratio, the Elected Amount (if any) shall be deemed to be outstanding, whether or not such amount is actually outstanding.

"Consolidated Total Indebtedness" means, as of any date of determination, with respect to any Person and its Restricted Subsidiaries, an amount equal to (a) the sum of (1) the aggregate principal amount of all outstanding Indebtedness of such Person and its Restricted Subsidiaries on a consolidated basis consisting of Indebtedness for borrowed money, unreimbursed drawings under letters of credit, Obligations in respect of Capitalized Lease Obligations and third-party debt obligations evidenced by promissory notes and similar instruments (and excluding, for the avoidance of doubt, (A) all undrawn amounts under revolving credit facilities (except to the extent of any Elected Amount), (B) Hedging Obligations, (C) performance bonds or any similar instruments, (D) all Obligations relating to Permitted Receivables Financings and (E) the effects of any discounting of Indebtedness resulting from the application of acquisition method accounting in connection with any acquisition (by merger, consolidation, amalgamation, dividend, distribution or otherwise) or other Investment) and (2) the aggregate amount of all outstanding Disqualified Stock of Person and all Preferred Stock of its Restricted Subsidiaries on a consolidated basis, with the amount of such Disqualified Stock and Preferred Stock equal to the greater of their respective voluntary or involuntary liquidation preferences and maximum fixed repurchase prices, in each case determined on a consolidated basis in accordance with GAAP less (b) all cash and Cash Equivalents of such Person and its Restricted Subsidiaries. For purposes hereof, the "maximum fixed repurchase price" of any Disqualified Stock or Preferred Stock that does not have a fixed repurchase price shall be calculated in accordance with the terms of such Disqualified Stock or Preferred Stock as if such Disqualified Stock or Preferred Stock were purchased on any date on which Consolidated Total Indebtedness shall be required to be determined pursuant to this Indenture, and if such price is based upon, or measured by, the fair market value of such Disqualified Stock or Preferred Stock, such fair market value shall be determined in good faith by the Board or senior management of such Person.

"Contingent Obligations" means, with respect to any Person, any obligation of such Person guaranteeing any leases, dividends or other obligations that do not constitute Indebtedness ("*primary obligations*") of any other Person (the "*primary obligor*") in any manner, whether directly or indirectly, including, without limitation, any obligation of such Person, whether or not contingent,

(1) to purchase any such primary obligation or any property constituting direct or indirect security therefor,

(2) to advance or supply funds:

(a) for the purchase or payment of any such primary obligation, or

(b) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, or

(3) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound other than the Senior Credit Facility Obligations.

"Controlled Investment Affiliate" means, as to any Person, any other Person, other than any Investor, which directly or indirectly controls, is controlled by, or is under common control with such Person and is organized by such Person (or any Person controlling such Person) primarily for making direct or indirect equity or debt investments in the Issuer and/or other Persons.

"Controlling Collateral Agent" means, with respect to any Shared Collateral, (1) until the Controlling Collateral Agent Change Date, the Senior Credit Facilities Collateral Agent and (2) from and after the Controlling Collateral Agent Change Date, the Major Non-Controlling Collateral Agent.

"Controlling Collateral Agent Change Date" means the earlier of (i) the discharge of the Senior Credit Facility Obligations and (2) the Non-Controlling Collateral Agent Enforcement Date.

"Controlling Secured Parties" means, with respect to any Shared Collateral, the Series of Equal Priority Secured Parties whose Collateral Agent is the Controlling Collateral Agent for such Shared Collateral.

"Corporate Trust Office" means 500 Ross Street, 12th Floor, Pittsburgh, PA 15262, Attention: Corporate Trust Administration, or such other address as the Trustee may designate from time to time by notice to the Holders and the Issuer, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Holders and the Issuer).

"Covenant Defeasance" has the meaning specified in Section 13.03 of this Indenture.

"Covenant Suspension Event" has the meaning specified in Section 10.19(a) of this Indenture.

"Credit Facility" means, with respect to the Issuer or any of its Restricted Subsidiaries, one or more debt facilities (including, without limitation, the Senior Credit Facilities) or other financing arrangements (including, without limitation, commercial paper facilities or indentures) providing for revolving credit loans, term loans, letters of credit or other Indebtedness, including any notes, mortgages, guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements, refundings, replacements, exchanges or refinancings thereof, in whole or in part, and any financing arrangements that amend, supplement, modify, extend, renew, restate, refund, replace, exchange or refinance any part thereof, including, without limitation, any such amended, supplemented, modified, extended, renewed, restated, refunding, replacement, exchanged or refinancing financing arrangement that increases the amount permitted to be borrowed or issued thereunder or alters the maturity thereof (*provided* that such increase in borrowings or issuance is permitted under Section 10.11) or adds Restricted Subsidiaries as additional borrowers or guarantors thereunder and whether by the same or any other agent, trustee, lender or group of lenders, investors, holders or otherwise.

"Default" means any event that is, or after notice or lapse of time or both would become, an Event of Default.

"Defaulted Interest" has the meaning specified in Section 3.07(b) of this Indenture.

"Deposit Account" means a demand, time, savings, passbook or like account with a bank, excluding, for the avoidance of doubt, any investment property (within the meaning of the UCC) or any account evidenced by an instrument (within the meaning of the UCC).

"Depository" means The Depository Trust Company, its nominees and their respective successors.

"Designated Non-cash Consideration" means the fair market value of non-cash consideration received by the Issuer or a Restricted Subsidiary in connection with an Asset Sale that is so designated as Designated Non-cash Consideration pursuant to an Officer's Certificate, setting forth the basis of such valuation, less the amount of cash or Cash Equivalents received in connection with a subsequent sale, redemption or repurchase of or collection or payment on such Designated Non-cash Consideration. A particular item of Designated Non-cash Consideration will no longer be considered to be outstanding when and to the extent it has been paid, redeemed or otherwise retired or sold or otherwise disposed of in exchange for consideration in the form of cash or Cash Equivalents in compliance with Section 10.17.

"Designated Preferred Stock" means Preferred Stock of the Issuer or any Parent Entity (in each case other than Disqualified Stock) that is issued for cash (other than to a Restricted Subsidiary or an employee stock ownership plan or trust established by the Issuer or any of its Subsidiaries) and is so designated as Designated Preferred Stock, pursuant to an Officer's Certificate executed by the principal financial officer of the Issuer or the applicable Parent Entity, as the case may be, on the issuance date thereof, the cash proceeds of which are excluded from the calculation set forth in Section 10.10(a)(3).

"Disqualified Stock" means, with respect to any Person, any Capital Stock of such Person which, by its terms, or by the terms of any security into which it is convertible or for which it is putable or exchangeable, or upon the happening of any event, matures or is mandatorily redeemable (other than solely for Capital Stock of such Person or any Parent Entity thereof that would not otherwise constitute

Disqualified Stock, and other than solely as a result of a change of control, asset sale, casualty, condemnation or eminent domain) pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof (other than solely as a result of a change of control, asset sale, casualty, condemnation or eminent domain), in whole or in part, in each case prior to the date 91 days after the earlier of the maturity date of the Notes or the date the Notes are no longer outstanding; *provided*, *however*, that if such Capital Stock is issued to any plan for the benefit of employees of the Issuer or its Subsidiaries or by any such plan to such employees, such Capital Stock shall not constitute Disqualified Stock solely because it may be required to be repurchased by the Issuer or its Subsidiaries or Parent Entities in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, death or disability; *provided*, *further*, that any Capital Stock held by any future, current or former employee, director, officer, manager or consultant (or their respective Controlled Investment Affiliates or Immediate Family Members, or any Permitted Transferee thereof) of the Issuer, any of its Subsidiaries or any Parent Entity or any other entity in which the Issuer or a Restricted Subsidiary has an Investment and is designated in good faith as an "*affiliate*" by the Board of the Issuer (or the compensation committee thereof) shall not constitute Disqualified Stock solely because it may be required to be repurchased by the Issuer or its Subsidiaries pursuant to any stockholders' agreement, management equity plan, stock option plan or any other management or employee benefit plan or agreement or in order to satisfy applicable statutory or regulatory obligations.

"Domestic Subsidiary" means any Restricted Subsidiary (other than a Foreign Subsidiary) that is organized or existing under the laws of the United States, any state thereof or the District of Columbia.

"Elected Amount" has the meaning set forth in the definition of "Consolidated Secured Debt Ratio."

"Electronic Means" means the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder.

"EMU" means economic and monetary union as contemplated in the Treaty on European Union.

"Equal Lien Priority" means, with respect to specified Indebtedness, such Indebtedness is secured by a Lien that is equal in priority to the Liens on specified Collateral (but without regard to control of remedies) and is subject to the Equal Priority Intercreditor Agreement (or such other intercreditor agreement having substantially similar terms as the Equal Priority Intercreditor Agreement, taken as a whole).

"Equal Priority Intercreditor Agreement" means an intercreditor agreement, dated as of the Issue Date, among the Notes Collateral Agent, the Senior Credit Facilities Collateral Agent, the Issuer, the Guarantors and any Additional Equal Priority Secured Parties from time to time party thereto, substantially in the form of Exhibit C hereto (as the same may be amended, restated, renewed, replaced or otherwise modified from time to time).

"Equal Priority Obligations" means, collectively, (1) the Senior Credit Facility Obligations, (2) the Secured Notes Obligations and (3) each Series of Additional Equal Priority Obligations.

"Equal Priority Secured Parties" means collectively, (1) the Senior Credit Facilities Secured Parties, (2) the Secured Notes Secured Parties and (3) any Additional Equal Priority Secured Parties.

"Equity Interests" means Capital Stock and all warrants, options or other rights to acquire Capital Stock, but excluding any debt security that is convertible into, or exchangeable for, Capital Stock.

"Equity Offering" means any public or private sale or issuance of common equity or Preferred Stock of the Issuer or any Parent Entity (excluding Disqualified Stock), other than:

(1) public offerings with respect to the Issuer's or any Parent Entity's common stock registered on Form S-8;

(2) issuances to any Subsidiary of the Issuer; and

(3) any such public or private sale or issuance that constitutes an Excluded Contribution.

"Equityholding Vehicle" means any Parent Entity of the Issuer and any equityholder thereof through which former, current or future officers, directors, employees, managers or consultants of the Issuer or any of its Subsidiaries or Parent Entities hold Capital Stock of such Parent Entity.

"euro" means the single currency of participating member states of the EMU.

"Event of Default" has the meaning set forth in Section 5.01 of this Indenture.

"Excess Proceeds" has the meaning set forth in Section 10.17(c) of this Indenture.

"Exchange Act" means the Securities Exchange Act of 1934, as amended (with respect to the definitions of "Change of Control" and "Permitted Holders" only, as in effect on the Issue Date).

"Excluded Assets" means the following:

(1) (a) any fee-owned real property with a fair market value of less than $25.0 million; *provided* that fair market value of any such fee-owned real property shall be determined at the time of acquisition thereof, or, if acquired prior to the date the applicable Person became a Grantor, the date such Person became a Grantor, or, to the extent that any improvements are constructed on any such real property after the date of acquisition, on the date of "substantial completion" or similar timing, as determined by the Issuer in consultation with the Controlling Collateral Agent, of such improvement, (b) any leasehold interests of a Grantor (as tenant, lessee, ground lessee, sublessor, subtenant or sublessee) in real property and (c) any fee-owned real property with improvements that are located in an area determined by the Federal Emergency Management Agency to have special flood hazards that would otherwise become subject to the covenant described under the heading "*Further Assurances*";

(2) motor vehicles, aircraft, aircraft engines and other assets subject to certificates of title or ownership to the extent a security interest therein cannot be perfected by a filing of a UCC financing statement;

(3) any asset (including Equity Interests) if, to the extent and for so long as the grant of a Lien thereon to secure the Secured Notes Obligations (a) is prohibited by any Requirements of Law (other than to the extent that any such prohibition would be rendered ineffective pursuant to the UCC or any other applicable Requirements of Law) or (b) would result in the forfeiture of any Grantor's rights in the asset (including, but not limited to, any legally effective prohibition or restriction);

(4) any Excluded Equity Interests;

(5) any property to the extent that such grant of a security interest in or Lien on such property requires a consent not obtained of any Governmental Authority pursuant to any Requirements of Law and any Governmental Authority licenses or state or local Governmental Authority franchises, charters or authorizations, to the extent the grant of a security interest in any such licenses, franchise, charter or authorization would be prohibited or restricted by such license, franchise, charter or authorization (other than to the extent that any such requirement, prohibition or restriction would be rendered ineffective pursuant to the Uniform Commercial Code or any other applicable Requirements of Law);

(6) any contract, license, lease, agreement, permit, instrument, security or franchise agreement or other document to which any Grantor is a party or any asset, right or property of a Grantor that is subject to a purchase money security interest, Capitalized Lease Obligation, similar arrangement or contract, license, lease, agreement, permit, instrument, security or franchise agreement or other document (which shall include any property that is subject to a Lien permitted pursuant to the following clauses (11), (12) (solely with respect to Indebtedness incurred pursuant to Section 10.11(b)(4)), (17) and (32) (but only in the case of clauses (11), (12) (solely with respect to Indebtedness incurred pursuant to Section 10.11(b)(4)), and (17)) of the definition of "Permitted Liens" (and accessions and additions to such assets, rights or property, replacements and products thereof and customary security deposits, related contract rights and payment intangibles)) and any of its rights or interests thereunder, in each case only to the extent and for so long as the grant of such security interest or Lien in such contract, license, lease, agreement, permit, instrument, security or franchise agreement or other document or such asset, right or property is prohibited by or constitutes or results or would constitute or result in the invalidation, violation, breach, default, forfeiture or unenforceability of any right, title or interest of such Grantor under such contract, license, lease, agreement, permit, instrument, security or franchise agreement or other document or purchase money, capital lease or similar arrangement or contract, license, lease, agreement, permit, instrument, security or franchise agreement or other document or creates or would create a right of termination in favor of any other party thereto (other than the Issuer or any Wholly-Owned Restricted Subsidiary), or requires consent not obtained of any third party (it being understood and agreed that no Grantor or Restricted Subsidiary shall be required to seek any such consent), after giving effect to the applicable anti-assignment clauses of the UCC and Requirements of Law, other than the proceeds thereof the assignment of which is expressly deemed effective under the UCC or any similar Requirements of Law notwithstanding such prohibition;

(7) those assets as to which the Issuer and the Controlling Collateral Agent shall reasonably determine in writing that the costs or other consequences of obtaining or perfecting such a security interest are excessive in relation to the value of the security interest to be afforded thereby;

(8) any intent-to-use trademark application filed in the United States Patent and Trademark Office to the extent that an amendment to allege use or a verified statement of use with respect to such intent-to-use application has not been filed with and accepted by the United States Patent and Trademark Office, but only to the extent that the grant of a Lien thereon would invalidate or otherwise impair such trademark application, and

(9) any property to the extent a security interest in such property would result in material adverse tax consequences to the Issuer or any Subsidiary of the Issuer as reasonably determined by the Issuer in consultation with the Controlling Collateral Agent.

"Excluded Contribution" means net cash proceeds, the fair market value of marketable securities or the fair market value of Qualified Proceeds received by the Issuer from:

(1) contributions to its common equity capital;

(2) dividends, distributions, fees and other payments from any Unrestricted Subsidiaries or joint ventures or Investments in entities that are not Restricted Subsidiaries; and

(3) the sale (other than to a Subsidiary of the Issuer or to any management equity plan or stock option plan or any other management or employee benefit plan or agreement of the Issuer) of Capital Stock (other than Disqualified Stock and Designated Preferred Stock) of the Issuer,

in each case designated as Excluded Contributions pursuant to an Officer's Certificate executed by the principal financial officer of the Issuer within 10 Business Days of the date such capital contributions are made, the date such dividends, distributions, fees or other payments are received or the date such Equity Interests are sold, as the case may be, which are excluded from the calculation set forth in Section 10.10(a)(3); *provided* that any such dividends, distributions, fees or other payments so designated pursuant to clause (2) of this definition shall be excluded from the definition of "Consolidated Net Income" for all purposes under this Indenture.

"Excluded Equity Interests" means:

(1) any Equity Interest as to which the Issuer and the Senior Credit Facilities Collateral Agent reasonably determine in writing that the costs or other consequences of pledging such Equity Interest are excessive in relation to the value of the security interest to be afforded thereby,

(2) (a) solely in the case of any pledge of the Equity Interests of any Foreign Subsidiary or FSHCO to secure the Secured Notes Obligations, any Equity Interests that are Voting Stock of a first-tier Foreign Subsidiary or a first-tier FSHCO in excess of 65% of the total Voting Stock of such first-tier Foreign Subsidiary or first-tier FSHCO, or (b) Equity Interests of any direct or indirect Subsidiary of a Foreign Subsidiary or FSHCO,

(3) any Margin Stock,

(4) Equity Interests of any Person, other than any Wholly-Owned Restricted Subsidiary, to the extent, and for so long as, the pledge of such Equity Interests is prohibited by the terms of any Contractual Obligation, Organizational Document, joint venture agreement or shareholders' agreement applicable to such Person, or creates an enforceable right of termination with respect to the foregoing in favor of any other party thereto (other than the Issuer or any Wholly-Owned Restricted Subsidiary),

(5) the Equity Interests of any Unrestricted Subsidiary or of any Special Purpose Entity,

(6) any Equity Interests of any Subsidiary to the extent that the pledge of such Equity Interests would result in material adverse tax consequences to the Issuer or any Subsidiary as reasonably determined by the Issuer in consultation with the Senior Credit Facilities Collateral Agent and confirmed in writing by notices to the Senior Credit Facilities Collateral Agent,

(7) the Equity Interests in any Minority Investment,

(8) any Equity Interests to the extent, and for so long as, the pledge thereof would be prohibited by any Requirements of Law (including any requirement to obtain the consent of any Governmental Authority to such pledge unless such consent has been obtained) (other than to the extent that any such prohibition or restriction would be rendered ineffective pursuant to the UCC or any other applicable Requirements of Law), and

(9) any other Equity Interests that constitute Excluded Assets.

"fair market value" means, with respect to any Investment, asset, property or liability, the fair market value of such Investment, asset, property or liability as determined in good faith by the Board or senior management of the Issuer.

"FATCA" has the meaning set forth in Section 1.20 of this Indenture.

"Federal Reserve" means the Board of Governors of the Federal Reserve System of the United States of America, or any successor thereto.

"Fitch" means Fitch Inc., a subsidiary of Fimalac, S.A., and any successor to its rating agency business.

"Fixed Charge Coverage Ratio" means, with respect to any Person as of any Applicable Calculation Date, the ratio of Consolidated EBITDA of such Person for the Applicable Measurement Period to the Fixed Charges of such Person for such Applicable Measurement Period. In the event that such Person or any Restricted Subsidiary incurs, assumes, guarantees, redeems, repays, retires or extinguishes any Indebtedness or issues or redeems Disqualified Stock or Preferred Stock subsequent to the commencement of the Applicable Measurement Period but on or prior to the Applicable Calculation Date, then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect to such incurrence, assumption, guarantee, redemption, repayment, retirement or extinguishment of Indebtedness, or such issuance or redemption of Disqualified Stock or Preferred Stock (in each case, including a *pro forma* application of the net proceeds therefrom), as if the same had occurred at the beginning of the Applicable Measurement Period; *provided*, *however*, that the pro forma calculation (other than, with respect to Section 10.11(b)(14)(x), Indebtedness incurred pursuant to Section 10.11(b)(14)(x)) shall not give effect to any Indebtedness incurred on the Applicable Calculation Date pursuant to Section 10.11(b); *provided*, *further*, that for purposes of the calculation of the Fixed Charge Coverage Ratio, in connection with the incurrence of any Indebtedness pursuant to Section 10.11(a), such Person may elect, pursuant to an Officer's Certificate delivered to the Trustee, to treat an Elected Amount under any Indebtedness which is to be incurred (or any commitment in respect thereof) as being incurred as of the Applicable Calculation Date and (i) any subsequent incurrence of such Indebtedness under such commitment that was so treated (so long as the total amount under such Indebtedness does not exceed the Elected Amount) shall not be deemed, for purposes of this calculation, to be an incurrence of additional Indebtedness at such subsequent time, (ii) such Person may revoke an election of an Elected Amount pursuant to an Officer's Certificate delivered to the Trustee and (iii) for subsequent calculations of the Fixed Charge Coverage Ratio, the Elected Amount (if any) shall be deemed to be outstanding, whether or not such amount is actually outstanding.

For purposes of making the computation referred to above, Investments, acquisitions, dispositions, mergers, amalgamations, consolidations and disposed operations (as determined in accordance with GAAP) and operational changes that have been made by the Issuer or any of its Restricted Subsidiaries during the Applicable Measurement Period or subsequent to such Applicable Measurement Period and on or prior to or simultaneously with the Applicable Calculation Date shall be calculated on a pro forma basis assuming that all such Investments, acquisitions, dispositions, mergers, amalgamations, consolidations, disposed operations and operational changes (and the change in any associated fixed charge obligations and the change in Consolidated EBITDA resulting therefrom) had occurred on the first day of the Applicable Measurement Period; *provided that*, for the avoidance of doubt, notwithstanding any classification under GAAP of any Person or business in respect of which a definitive agreement for the disposition thereof has been entered into as discontinued operations, any change in any associated fixed charge obligations and any change in Consolidated EBITDA of such Person or business as a result of the disposition shall be excluded pursuant to this paragraph until such disposition shall have been consummated. If any Person that subsequently became a Restricted Subsidiary (including pursuant to a redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary) or was merged, amalgamated or consolidated with or into the Issuer or any of its Restricted Subsidiaries during such period shall have made any Investment, acquisition, disposition, merger, amalgamation, consolidation or disposed operation (including any spin-off transaction) and operational changes during such period that would have required adjustment pursuant to this definition, then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect thereto for such Applicable Measurement Period as if such Investment, acquisition, disposition, merger, amalgamation, consolidation, disposed operation or operational changes had occurred at the beginning of the Applicable Measurement Period. For the avoidance of doubt, in the event that a Subsidiary was previously designated as an Unrestricted Subsidiary but was redesignated as a Restricted Subsidiary during or subsequent to the Applicable Measurement Period and is a Restricted Subsidiary as of the Applicable Calculation Date, the computation referred to above shall be calculated on a pro forma basis assuming that such redesignation as a Restricted Subsidiary (and the change in any associated fixed charge obligations and any change in Consolidated EBITDA resulting therefrom) had occurred on the first day of the Applicable Measurement Period.

For purposes of this definition, whenever pro forma effect is to be given to a transaction, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Issuer (and may include, for the avoidance of doubt and without duplication, cost savings, operating expense reductions and synergies resulting from any Asset Sale or other disposition or such Investment, acquisition, disposition, merger, amalgamation or consolidation or other transaction, in each case calculated in accordance with and permitted by clause (2) of the definition of "Consolidated EBITDA" herein). If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Applicable Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Issuer to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period or, if lower, the maximum commitments under such revolving credit facility as of the Applicable Calculation Date. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Issuer may designate.

"Fixed Charges" means, with respect to any Person for any period, the sum of (without duplication):

(1) Consolidated Interest Expense of such Person for such period;

(2) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Preferred Stock during such period; and

(3) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Disqualified Stock during such period.

"Foreign Subsidiary" means any Restricted Subsidiary that is not organized under the laws of the United States, any state thereof or the District of Columbia and any Restricted Subsidiary of such Foreign Subsidiary.

"FSHCO" means any direct or indirect Domestic Subsidiary that has no material assets other than capital stock (including any debt instrument treated as equity for U.S. federal income tax purposes) and, if any, Indebtedness of one or more CFCs.

"Funding Guarantor" has the meaning specified in Section 12.05 of this Indenture.

"GAAP" means generally accepted accounting principles in the United States of America 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 entity as have been approved by a significant segment of the accounting profession, as in effect from time to time; *provided* that all terms of an accounting or financial nature used in this Indenture shall be construed, and all computations of amounts and ratios referred to in this Indenture shall be made (a) without giving effect to any election under FASB Accounting Standards Codification Topic 825 —*Financial Instruments*, or any successor thereto (including pursuant to the FASB Accounting Standards Codification), to value any Indebtedness of the Issuer or any Subsidiary at "fair value," as defined therein and (b) the amount of any Indebtedness under GAAP with respect to Capitalized Lease Obligations shall be determined in accordance with the definition of Capitalized Lease Obligations. At any time after the Issue Date, the Issuer may elect to apply IFRS accounting principles in lieu of GAAP and, upon any such election, references herein to GAAP shall thereafter be construed to mean IFRS (except as otherwise provided in this Indenture); *provided* that any such election, once made, shall be irrevocable; *provided*, *further*, any calculation or determination in this Indenture that requires the application of GAAP for periods that include fiscal quarters ended prior to the Issuer's election to apply IFRS shall remain as previously calculated or determined in accordance with GAAP. The Issuer shall give written notice of any such election made in accordance with this definition to the Trustee. For the avoidance of doubt, solely making an election (without any other action) referred to in this definition will not be treated as an incurrence of Indebtedness.

If there occurs a change in generally accepted accounting principles occurring after the Issue Date (including with respect to the treatment of leases in the definition of "Capitalized Lease Obligations", operating leases and revenue recognition) and such change would cause a change in the method of calculation of any term or measure used in this Indenture (an "*Accounting Change*"), then the Issuer may elect, as evidenced by a written notice of the Issuer to the Trustee, that such term or measure shall be calculated as if such Accounting Change had not occurred.

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

"Grantor" means the Issuer and any Guarantor.

"guarantee" means a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner (including letters of credit and reimbursement agreements in respect thereof), of all or any part of any Indebtedness or other obligations.

"Guarantor" means each Subsidiary of the Issuer that executes this Indenture as a Guarantor on the Issue Date and each other Affiliate of the Issuer that thereafter guarantees the Notes in accordance with the terms of this Indenture, until, in each case, such Person is released from its Note Guarantee in accordance with the terms of this Indenture.

"Hedging Obligations" means, with respect to any Person, the obligations of such Person with respect to (1) any rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any Master Agreement (as defined below), and (2) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "*Master Agreement*"), including any such obligations or liabilities under any Master Agreement.

"holder" means, with reference to any Indebtedness or other Obligations, any holder or lender of, or trustee or collateral agent or other authorized representative with respect to, such Indebtedness or Obligations, and, in the case of Hedging Obligations, any counter-party to such Hedging Obligations.

"Holder" means the Person in whose name a Note is registered on the Note Registrar's books.

"IFRS" means the international accounting standards as promulgated by the International Accounting Standards Board.

"Immaterial Subsidiary" means, as of any date of determination, any Restricted Subsidiary of the Issuer (a) the assets of which (when combined with the assets of such Restricted Subsidiary's Subsidiaries, after eliminating intercompany obligations) at the last day of the most recent Applicable Measurement Period ended on or prior to such determination date were less than 5.0% of the

Total Assets of the Issuer and its Restricted Subsidiaries at such date and (b) whose gross revenues (when combined with the revenues of such Restricted Subsidiary's Subsidiaries, after eliminating intercompany obligations) for such Applicable Measurement Period were less than 5.0% of the consolidated revenues of the Issuer and its Restricted Subsidiaries for such period, in each case determined in accordance with GAAP.

"Immediate Family Members" means with respect to any individual, such individual's child, stepchild, grandchild or more remote descendant, parent, stepparent, grandparent, spouse, former spouse, qualified domestic partner, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law (including adoptive relationships), and any trust, partnership or other bona fide estate-planning vehicle the only beneficiaries of which are any of the foregoing individuals or any private foundation, fund or trust that is controlled by any of the foregoing individuals or any donor-advised foundation, fund or trust of which any such individual is the donor.

"incur" has the meaning specified in Section 10.11 of this Indenture.

"incurrence" has the meaning specified in Section 10.11 of this Indenture.

"Indebtedness" means, with respect to any Person on any date of determination, the principal amount in respect of, without duplication:

(1) indebtedness of such Person:

(a) in respect of borrowed money, including indebtedness for borrowed money evidenced by notes, debentures, bonds or other similar instruments or reimbursement obligations in respect of letters of credit;

(b) representing any balance deferred and unpaid portion of the purchase price of any property (including pursuant to Capitalized Lease Obligations), except (i) any such balance that constitutes an obligation in respect of a commercial letter of credit, a trade payable or similar obligation to a trade creditor, in each case accrued in the ordinary course of business and (ii) any earn-out obligations until such obligation, if not paid within 120 days of becoming due and payable, is reflected as a liability on the balance sheet of such Person in accordance with GAAP; or

(c) representing any net Hedging Obligations;

if and to the extent that any of the foregoing Indebtedness in clauses (a) through (c) (other than net Hedging Obligations) would appear as a liability upon a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP; *provided* that Indebtedness of any Parent Entity appearing on the balance sheet of the Issuer solely by reason of push down accounting under GAAP shall be excluded;

(2) to the extent not otherwise included, all guarantees in respect of such indebtedness specified in clause (1) of another Person, other than by endorsement of negotiable instruments for collection in the ordinary course of business; and

(3) to the extent not otherwise included, the obligations of the type referred to in clause (1) of a third Person secured by a Lien on any assets owned by such first Person, whether or not such Indebtedness is assumed by such first Person; *provided*, *however*, that the amount of such Indebtedness will be the lesser of (x) the fair market value of such assets at such date of determination and (y) the amount of such Indebtedness of such other Person;

provided, *however*, that notwithstanding the foregoing, Indebtedness shall be deemed not to include (A) Contingent Obligations incurred in the ordinary course of business, (B) accrued expenses and royalties, (C) obligations under or in respect of operating leases or Sale and Lease-Back Transactions (except any resulting Capitalized Lease Obligations) and Permitted Receivables Financing, (D) asset retirement obligations and obligations in respect of reclamation and workers' compensation (including pensions and retiree medical care) that are not overdue by more than 90 days or (E) any amounts payable or other liabilities to trade creditors (including undrawn letters of credit) arising in the ordinary course of business.

For all purposes hereof, the Indebtedness of the Issuer and its Restricted Subsidiaries shall exclude intercompany liabilities arising from their cash management and accounting operations and intercompany loans, advances or Indebtedness having a term not exceeding 364 days (inclusive of any rollover or extensions of terms) and made in the ordinary course of business.

"Indenture" means this instrument as originally executed and as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof.

"Independent Financial Advisor" means an accounting, appraisal, investment banking firm or consultant of nationally recognized standing that is, in the good faith judgment of the Issuer, qualified to perform the task for which it has been engaged.

"Initial Notes" has the meaning set forth in the first recital of this Indenture.

"Intercreditor Agreements" means (i) the Equal Priority Intercreditor Agreement and (ii) any Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement entered into after the Issue Date in accordance with Section 14.08(8) and Section 9.01(18).

"Interest Payment Date" means the Stated Maturity of an installment of interest on the Notes.

"Investment Grade Rating" means a rating equal to or higher than Baa3 (or the equivalent) by Moody's and BBB- (or the equivalent) by S&P or Fitch or the equivalent investment grade credit rating from any other Rating Agency.

"Investment Grade Securities" means:

(1) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof (other than Cash Equivalents);

(2) debt securities or debt instruments with an Investment Grade Rating, but excluding any debt securities or instruments constituting loans or advances among the Issuer and its Subsidiaries;

(3) investments in any fund that invests at least 90% of its assets in investments of the type described in clauses (1) and (2) above, which fund may also hold immaterial amounts of cash pending investment or distribution; and

(4) corresponding instruments in countries other than the United States customarily utilized for high quality investments.

"Investments" means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of loans (including guarantees), advances or capital contributions (excluding accounts receivable, trade credit, advances to customers, commission, travel and similar advances to officers, directors, managers, employees and consultants, in each case made in the ordinary course of business or consistent with past practice), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities issued by any other Person and investments that are required by GAAP to be classified on the balance sheet (excluding the footnotes) of the Issuer in the same manner as the other investments included in this definition to the extent such transactions involve the transfer of cash or other property. For purposes of the definition of "Unrestricted Subsidiary" and Section 10.10:

(1) "Investments" shall include the portion (proportionate to the Issuer's equity interest in such Subsidiary) of the fair market value of the net assets of a Subsidiary of the Issuer at the time that such Subsidiary is designated an Unrestricted Subsidiary; *provided, however,* that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Issuer shall be deemed to continue to have a permanent "Investment" in an Unrestricted Subsidiary in an amount (if positive) equal to:

(a) the Issuer's "Investment" in such Subsidiary at the time of such redesignation; less

(b) the portion (proportionate to the Issuer's equity interest in such Subsidiary) of the fair market value of the net assets of such Subsidiary at the time of such redesignation;

(2) any property transferred to or from an Unrestricted Subsidiary shall be valued at its fair market value at the time of such transfer, in each case as determined by the Issuer; and

(3) if the Issuer or any Restricted Subsidiary issues, sells or otherwise disposes of any Capital Stock of a Person that is a Restricted Subsidiary such that, after giving effect thereto, such Person is no longer a Restricted Subsidiary, any investment by the Issuer or any Restricted Subsidiary in such Person remaining after giving effect thereto shall not be deemed to be an Investment at such time.

The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced by any dividend, distribution, interest payment, return of capital, repayment or other amount received in cash or Cash Equivalents by the Issuer or a Restricted Subsidiary in respect of such Investment.

"Investors" means each of (1) Artal Group S.A. and its Affiliates and any funds, partnerships or other co-investment vehicles managed, advised or controlled by the foregoing or their respective Affiliates and (2) Oprah Winfrey and her Affiliates and Immediate Family Members, and also upon Oprah Winfrey's death, (a) any Person who was an Affiliate of Oprah Winfrey that upon her death directly or indirectly owns Equity Interests in any Parent Entity of the Issuer, the Issuer or any Subsidiary and (b) Oprah Winfrey's heirs, executors and/or administrators.

"Issue Date" means April 13, 2021.

"Issuer" has the meaning set forth in the first recital of this Indenture.

"Issuer Request" or "Issuer Order" means a written request or order signed in the name of the Issuer by an Officer thereof, and delivered to the Trustee.

"Junior Lien Priority" means, with respect to specified Indebtedness, that such Indebtedness is secured by a Lien that is junior in priority to the Liens on the Collateral securing the Senior Priority Obligations and is subject to a Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement (it being understood that junior Liens are not required to rank equally and ratably with other junior Liens, and that Indebtedness secured by junior Liens may be secured by Liens that are senior in priority to, or rank equally and ratably with, or junior in priority to, other Liens constituting junior Liens).

"Junior Priority Collateral Agent" means the Junior Priority Representative for the holders of any initial Junior Priority Obligations.

"Junior Priority Intercreditor Agreement" means an intercreditor agreement among the Senior Credit Facilities Collateral Agent, the Notes Collateral Agent and the applicable Junior Priority Collateral Agent(s), substantially in the form of Exhibit D hereto.

"Junior Priority Obligations" means the Obligations with respect to any Indebtedness having Junior Lien Priority relative to the Secured Notes Obligations; provided, that such Lien is permitted to be incurred under this Indenture, and provided further, that the holders of such indebtedness or their Junior Priority Representative shall become party to a Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement.

"Junior Priority Representative" means any duly authorized representative of any holders of Junior Priority Obligations, which representative is named as such in the Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement or any joinder thereto.

"Junior Priority Secured Parties" means the holders from time to time of any Junior Priority Obligations, the Junior Priority Collateral Agent and each other Junior Priority Representative.

"Junior Priority Security Agreement" means any security agreement covering any portion of the Collateral to be entered into by the Issuer, the Guarantors and a Junior Priority Representative.

"Junior Priority Security Documents" means, collectively, the Junior Priority Security Agreement, other security agreements relating to the Collateral securing a series of Junior Priority Obligations and the mortgages and instruments filed and recorded in appropriate jurisdictions to preserve and protect the Liens on the Collateral securing a series of Junior Priority Obligations (including, without limitation, financing statements under the Uniform Commercial Code of the relevant states) in each case, as amended, restated, renewed, replaced or otherwise modified from time to time.

"Legal Defeasance" has the meaning specified in Section 13.02 of this Indenture.

"Legal Holiday" means a Saturday, a Sunday or a day on which commercial banking institutions are not required to be open in the State of New York.

"Lien" means, with respect to any asset, any mortgage, lien (statutory or otherwise), pledge, hypothecation, charge, security interest, preference, priority or encumbrance of any kind in respect of such asset, whether or not filed, recorded, registered, published or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction; provided that in no event shall an operating lease (as determined under GAAP on the Issue Date) be deemed to constitute a Lien.

"Limited Condition Transaction" means (a) any incurrence or issuance of, or prepayment, repayment, redemption, repurchase, defeasance, acquisition, satisfaction and discharge, refinancing or similar payment of, Indebtedness, any Lien or any Equity Interests requiring irrevocable notice in advance or that the Issuer or any Restricted Subsidiary is contractually committed to consummate, (b) any acquisition (or proposed acquisition) by the Issuer or any Restricted Subsidiary whose consummation is not conditioned on the availability of, or on obtaining, third-party financing, (c) the making of any disposition that the Issuer or any Restricted Subsidiary is contractually committed to consummate, (d) the making of any Investment (including any acquisition or any designation or conversion of any subsidiary as (or to) "unrestricted" or "restricted") or Restricted Payment requiring irrevocable notice in advance or that the Issuer or any Restricted Subsidiary is contractually committed to consummate and (e) any other transaction or plan undertaken or proposed to be undertaken in connection with any of the preceding clauses (a) through (d), including any transaction that, if consummated, would constitute a transaction of the type described in any of the preceding clauses (a) through (d).

"Major Non-Controlling Collateral Agent" means, after the Controlling Collateral Agent Change Date, the Collateral Agent (other than the Senior Credit Facilities Collateral Agent) of the Series of Equal Priority Obligations that constitutes the largest outstanding aggregate principal amount of any then outstanding Series of Equal Priority Obligations (excluding the Senior Credit Facility Obligations) with respect to such Shared Collateral.

"Management Investors" means the former, current or future officers, directors, employees and managers (and Controlled Investment Affiliates and Immediate Family Members of the foregoing) of the Issuer, any Restricted Subsidiary or any Parent Entity of the Issuer who are or become direct or indirect investors in the Issuer, any Parent Entity of the Issuer or any Equityholding Vehicle, including any such officers, directors, employees and managers owning through an Equityholding Vehicle.

"Margin Stock" has the meaning assigned to such term in Regulation U of the Federal Reserve.

"Material Debt Instrument" means any physical instrument evidencing any Indebtedness for borrowed money with an individual outstanding principal amount in excess of $25.0 million and which is required to be pledged and delivered to the Senior Credit Facilities Collateral Agent (or its bailee) pursuant to any security agreement.

"Maturity" when used with respect to any Note, means the date on which the principal of such Note or an installment of principal becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration, notice of redemption or otherwise.

"Minority Investment" means any Person (other than a Subsidiary) in which the Issuer or any Restricted Subsidiary owns capital stock.

"Moody's" means Moody's Investors Service, Inc. and any successor to its rating agency business.

"Net Proceeds" means the aggregate cash proceeds and the fair market value of any Cash Equivalents received by the Issuer and any of its Restricted Subsidiaries in respect of any Asset Sale, including any cash or Cash Equivalents received upon the sale or other disposition of any Designated Non-cash Consideration received in any Asset Sale, net of (1) the fees, out-of-pocket expenses and other direct costs relating to such Asset Sale or the sale or disposition of such Designated Non-cash Consideration (including, without limitation, legal, accounting, consulting, investment banking and other customary fees, underwriting discounts and commissions, survey costs, title and recordation expenses, title insurance premiums, payments made in order to obtain a necessary consent or required by applicable law, brokerage and sales commissions and any relocation expenses incurred as a result thereof), (2) all federal, state, provincial, foreign and local taxes paid or reasonably estimated to be payable as a result thereof (including transfer taxes, deed or mortgage recording taxes and estimated taxes payable in connection with any repatriation of funds and after taking into account any available tax credits or deductions and any tax sharing arrangements), (3) amounts required to be applied to the repayment of principal, premium, if any, and interest on Senior Indebtedness (other than any unsecured Indebtedness) required (other than required by Section 10.17(b)) to be paid as a result of such transaction, (4) the pro rata portion of Net Proceeds thereof (calculated without regard to this clause (4)) attributable to minority interests and not available for distribution to or for the account of the Issuer and its Restricted Subsidiaries as a result thereof, (5) any costs associated with unwinding any related Hedging Obligations in connection with such transaction, (6) any deduction of appropriate amounts to be provided by the Issuer or any of its Restricted Subsidiaries as a reserve in accordance with GAAP in respect of adjustments to the sale price of such asset being disposed of or against any liabilities associated with the asset disposed of in such transaction and retained by the Issuer or any of its Restricted Subsidiaries after such sale or other disposition thereof, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction, (7) any portion of the purchase price from an Asset Sale placed in escrow, whether as a reserve for adjustment of the purchase price, for satisfaction of indemnities in respect of such Asset Sale or otherwise in connection with such Asset Sale; *provided*, that upon the termination of that escrow (other than in connection with a payment in respect of any such adjustment or satisfaction of indemnities), Net Proceeds will be increased by any portion of funds in the escrow that are released to the Issuer or any of its Restricted Subsidiaries and (8) the amount of any liabilities (other than Indebtedness in respect of the Senior Credit Facilities and the Notes) directly associated with such asset being sold and retained by the Issuer or any of its Restricted Subsidiaries. Any non-cash consideration received in connection with any Asset Sale that is subsequently converted to cash shall become Net Proceeds only at such time as it is so converted.

"New Project" means (a) each facility or operating location which is either a new facility, location or office or an expansion, relocation, remodeling or substantial modernization of an existing facility, location or office owned by the Issuer or its Subsidiaries which in fact commences operations and (b) each creation (in one or a series of related transactions) of a business unit to the extent such business unit commences operations or each expansion (in one or a series of related transactions) of business into a new market.

"Non-Capitalized Lease Obligation" means a lease obligation that is not required to be accounted for as a financing or capital lease on both the balance sheet and the income statement for financial reporting purposes in accordance with GAAP. For avoidance of doubt, a straight-line or operating lease shall be considered a Non-Capitalized Lease Obligation.

"Non-Controlling Collateral Agent" means, at any time with respect to any Shared Collateral, any Collateral Agent that is not the Controlling Collateral Agent at such time with respect to such Shared Collateral.

"Non-Controlling Collateral Agent Enforcement Date" means, with respect to any Non-Controlling Collateral Agent, the date that is 90 days (throughout which 90-day period such Non-Controlling Collateral Agent was the Major Non-Controlling Collateral Agent) after the occurrence of both (1) an event of default, as defined in this Indenture or other debt facility for the applicable Series of Equal Priority Obligations, but only for so long as such event of default is continuing, and (2) the Controlling Collateral Agent and each other Collateral Agent's receipt of written notice from such Non-Controlling Collateral Agent certifying that (a) such Non-Controlling Collateral Agent is the Major Non-Controlling Collateral Agent and that an event of default, as defined in this Indenture or other debt facility for that Series of Equal Priority Obligations has occurred and is continuing and (b) the Equal Priority Obligations of that Series are currently due and payable in full (whether as a result of acceleration thereof or otherwise) in accordance with this Indenture or debt facility for that Series of Equal Priority Obligations; provided that the Non-Controlling Collateral Agent Enforcement Date will be stayed and will not occur and will be deemed not to have occurred with respect to any Shared Collateral (i) at any time the Controlling Collateral Agent has commenced and is diligently pursuing any enforcement action with respect to such Shared Collateral or (ii) at any time any Grantor that has granted a security interest in such Shared Collateral is then a debtor under or with respect to (or otherwise subject to) any insolvency or liquidation proceeding.

"Non-Controlling Secured Parties" means, with respect to any Shared Collateral, the Equal Priority Secured Parties which are not Controlling Secured Parties with respect to such Shared Collateral.

"Non-Recourse Indebtedness" means Indebtedness that is non-recourse to the Issuer and its Restricted Subsidiaries (except for any customary limited recourse that is applicable only to Subsidiaries that are not Guarantors, that is customary in the relevant local market, and reasonable extensions thereof).

"Note Guarantee" means the guarantee by any Guarantor of the Issuer's Obligations under this Indenture and the Notes.

"Note Register" and "Note Registrar" have the respective meanings specified in Section 3.02.

"Notes" has the meaning stated in the first recital of this Indenture and more particularly means any Notes authenticated and delivered under this Indenture. The Initial Notes and the Additional Notes shall be treated as a single class for all purposes of this Indenture, and unless the context otherwise requires, all references to the Notes shall include the Initial Notes and any Additional Notes; *provided* that a separate CUSIP or ISIN will be issued for the Additional Notes, unless the Initial Notes and the Additional Notes are treated as fungible for U.S. federal income tax purposes.

"Notes Collateral Agent" means The Bank of New York Mellon, as collateral agent for the Holders of the Notes under the Security Documents and any successor pursuant to the provisions of this Indenture and the Security Documents.

"Notes Custodian" means the custodian with respect to a Global Note (as appointed by the Depository) or any successor person thereto, who shall initially be the Trustee.

"Obligations" means any principal, interest (including any interest accruing on or subsequent to the filing of a petition in bankruptcy, reorganization or similar proceeding at the rate provided for in the documentation with respect thereto, whether or not such interest is an allowed claim under applicable state, provincial, federal or foreign law), premium, penalties, fees, indemnifications,

reimbursements (including reimbursement obligations with respect to letters of credit and bankers' acceptances), damages and other liabilities, and guarantees of payment of such principal, interest, premium, penalties, fees, indemnifications, reimbursements, damages and other liabilities, payable under the documentation governing any Indebtedness; *provided*, that any of the foregoing (other than principal and interest) shall no longer constitute "Obligations" after payment in full of such principal and interest except to the extent such obligations are fully liquidated and non-contingent on or prior to such payment in full.

"Offering Memorandum" means the Offering Memorandum dated April 1, 2021 relating to the offering of the Notes.

"Officer" means the Chairman of the Board, any Manager or Director, the Chief Executive Officer, the Chief Financial Officer, the Chief Operating Officer, the President, any Executive Vice President, Senior Vice President or Vice President, the Treasurer, the Controller or the Secretary or any other officer designated by any such individuals of the Issuer or any other Person, as the case may be.

"Officer's Certificate" means a certificate signed on behalf of the Issuer by an Officer of the Issuer or on behalf of any other Person, as the case may be, that meets the requirements set forth in this Indenture and is delivered to the Trustee.

"Opinion of Counsel" means a written opinion from legal counsel who is reasonably acceptable to the Trustee (which opinion may be subject to customary assumptions and exclusions) and is delivered to the Trustee. The counsel may be an employee of, or counsel to, the Issuer.

"Organizational Documents" means, with respect to any Person, the charter, articles or certificate of organization or incorporation and by-laws or other organizational or governing documents of such Person (including any limited liability company or operating agreement).

"Outstanding", when used with respect to Notes, means, as of the date of determination, all Notes theretofore authenticated and delivered under this Indenture, except:

(1) Notes theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;

(2) Notes, or portions thereof, for whose payment or redemption money in the necessary amount has been theretofore deposited with the Trustee or any Paying Agent (other than the Issuer) in trust or set aside and segregated in trust by the Issuer (if the Issuer shall act as its own Paying Agent) for the Holders of such Notes; *provided* that, if such Notes are to be redeemed, written notice of such redemption has been duly given pursuant to this Indenture;

(3) Notes, except to the extent provided in Sections 13.02 and 13.03, with respect to which the Issuer has effected Legal Defeasance or Covenant Defeasance as provided in Article Thirteen; and

(4) Notes which have been paid pursuant to Section 3.06 or in exchange for or in lieu of which other Notes have been authenticated and delivered pursuant to this Indenture, other than any such Notes in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Notes are held by a Protected Purchaser in whose hands the Notes are valid obligations of the Issuer; *provided* that, in determining whether the Holders of the requisite principal amount of Outstanding Notes have given any request, demand, authorization, direction, consent, notice or waiver hereunder, Notes owned by the Issuer or its Affiliates shall be

disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in making such determination or in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Notes which a Responsible Officer of the Trustee actually knows to be so owned shall be so disregarded.

"Parent Entity" means any Person that, with respect to another Person, owns more than 50% of the total voting power of the Voting Stock of such other Person. Unless the context otherwise requires, any references to Parent Entity refer to a Parent Entity of the Issuer.

"Paying Agent" means any Person (including the Issuer acting as Paying Agent) authorized by the Issuer to pay the principal of (and premium, if any) or interest on any Notes on behalf of the Issuer.

"Permitted Asset Swap" means the substantially concurrent purchase and sale or exchange, including as a deposit for future purchases, of Related Business Assets or a combination of Related Business Assets and cash or Cash Equivalents between the Issuer or any of its Restricted Subsidiaries and another Person; *provided* that any cash or Cash Equivalents received must be applied in accordance with Section 10.17.

"Permitted Holders" means (1) each of the Investors, the Management Investors (including any Management Investors holding Equity Interests through an Equityholding Vehicle) and any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act) of which any of the foregoing, any Permitted Parent or any Permitted Holder specified in the last sentence of this definition are members and any member of such group; *provided*, that, in the case of such group and any member of such group and without giving effect to the existence of such group or any other group, such Investors, Management Investors (including such Equityholding Vehicle), Permitted Parent and Person or group specified in the last sentence of this definition, collectively, own, directly or indirectly, more than 50% of the total voting power of the Voting Stock of the Issuer held by such group, (2) any Permitted Parent and (3) any Permitted Plan. Any Person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act) whose acquisition of beneficial ownership or assets or properties of the Issuer constitutes a Change of Control in respect of which a Change of Control Offer is made in accordance with the requirements of this Indenture will thereafter, together with its Affiliates, constitute an additional Permitted Holder.

"Permitted Investments" means:

(1) any Investment in the Issuer or any of its Restricted Subsidiaries (including guarantees of obligations of its Restricted Subsidiaries);

(2) any Investment in cash and Cash Equivalents or Investment Grade Securities;

(3) any Investment by the Issuer or any of its Restricted Subsidiaries in a Person (including, to the extent constituting an Investment, in assets of a Person that represent substantially all of its assets or a division, business unit, product line or line of business, including research and development and related assets in respect of any product) that is engaged, directly or indirectly, in a Similar Business if as a result of such Investment:

(a) such Person becomes a Restricted Subsidiary (including by redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary); or

(b) such Person, in one transaction or a series of related transactions, is merged, amalgamated or consolidated with or into, or transfers or conveys substantially all of its assets (or such division, business unit, product line or line of business) to, or is liquidated into, the Issuer or a Restricted Subsidiary,

and, in each case, any Investment held by such Person; *provided* that such Investment was not acquired by such Person in contemplation of such acquisition, merger, amalgamation, consolidation, transfer, conveyance or redesignation;

(4) any Investment in securities or other assets (including earn-outs) not constituting cash, Cash Equivalents or Investment Grade Securities and received in connection with an Asset Sale made pursuant to Section 10.17 or any other disposition of assets not constituting an Asset Sale;

(5) any Investment existing on the Issue Date or made pursuant to binding commitments in effect on the Issue Date or an Investment consisting of any extension, modification, replacement, reinvestment or renewal of any such Investment existing on the Issue Date or binding commitment in effect on the Issue Date; *provided* that the amount of any such Investment may be increased in such extension, modification, replacement, reinvestment or renewal only (a) as required by the terms of such Investment or binding commitment as in existence on the Issue Date (including as a result of the accrual or accretion of interest or original issue discount or the issuance of pay-in-kind securities) or (b) as otherwise permitted under this Indenture;

(6) any Investment acquired by the Issuer or any of its Restricted Subsidiaries:

(i) in exchange for any other Investment or accounts receivable, endorsements for collection or deposit held by the Issuer or any such Restricted Subsidiary in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of the issuer of such other Investment or accounts receivable;

(ii) in satisfaction of judgments against other Persons;

(iii) as a result of a foreclosure by the Issuer or any of its Restricted Subsidiaries with respect to any secured Investment or other transfer of title with respect to any secured Investment in default; or

(iv) received in compromise or resolution of (A) obligations of trade creditors, suppliers or customers that were incurred in the ordinary course of business of the Issuer or any Restricted Subsidiary or consistent with past practice, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor, supplier or customer, or (B) litigation, arbitration or other disputes;

(7) Hedging Obligations permitted under Section 10.11(b)(10);

(8) any Investment (i) in a Similar Business having an aggregate fair market value (with the fair market value of such Investment being measured at the time of committing, declaring or determining to make such Investment and without giving effect to subsequent changes in value), taken together with all other Investments made, declared, committed or determined to be made (unless such declaration, commitment or determination has been

rescinded, revoked or otherwise terminated) pursuant to this clause (8) that are at that time outstanding, not to exceed at the time of such Investment the greater of (a) $180.0 million and (b) 50.0% of Consolidated EBITDA of the Issuer and its Restricted Subsidiaries as of the end of the Applicable Measurement Period (the greater of such amounts, the "*Similar Basket Amount*") and (ii) without duplication with clause (i), in an amount equal to the amount by which aggregate net cash proceeds from any sale or disposition of, or any distribution or returns in respect of, Investments made in reliance on clause (i) exceeds the Similar Basket Amount and provided that such amount will not increase the amount available for Restricted Payments under Section 10.10(a)(3); *provided*, *howeve*r, that if any Investment pursuant to this clause (8) is made in any Person that is not a Restricted Subsidiary at the date of the making of such Investment and such Person becomes a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (8) for so long as such Person continues to be a Restricted Subsidiary;

(9) Investments the payment for which consists of Equity Interests (exclusive of Disqualified Stock) of the Issuer or any Parent Entity; *provided*, *however*, that such Equity Interests will not increase the amount available for Restricted Payments under Section 10.10(a)(3);

(10) guarantees of Indebtedness permitted (and permitted to be guaranteed) under the covenant described in Section 10.11 and Investments consisting of Liens permitted under the covenant described under Section 10.12;

(11) any transaction to the extent it constitutes an Investment that is permitted by and made in accordance with Section 10.13(b) (except transactions described in Section 10.13(b)(2), (5) and (9));

(12) any Investments consisting of purchases and acquisitions of inventory, supplies, material or equipment or other similar assets, or the licensing or contribution of intellectual property pursuant to joint marketing arrangements with other Persons;

(13) additional Investments (i) having an aggregate fair market value (with the fair market value of such Investment being measured at the time of committing, declaring or determining to make such Investment and without giving effect to subsequent changes in value), taken together with all other Investments made, declared, committed or determined to be made (unless such declaration, commitment or determination has been rescinded, revoked or otherwise terminated) pursuant to this clause (13) that are at that time outstanding (without giving effect to the sale of an Unrestricted Subsidiary to the extent the proceeds of such sale do not consist of cash or marketable securities), not to exceed at the time of such Investment the greater of (x) $180.0 million and (y) 50% of Consolidated EBITDA of the Issuer and its Restricted Subsidiaries as of the end of the Applicable Measurement Period (the greater of such amounts, the "*General Basket Amount*") and (ii) without duplication with clause (i), in an amount equal to the amount by which aggregate net cash proceeds from any sale or disposition of, or any distribution or returns in respect of, Investments made in reliance on clause (i) exceeds the General Basket Amount and provided that such amount will not increase the amount available for Restricted Payments under Section 10.10(a)(3); *provided*, *however*, that if any Investment pursuant to this clause (13) is made in any Person that is not a Restricted Subsidiary of the Issuer at the date of the making of such Investment and such Person becomes a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (13) for so long as such Person continues to be a Restricted Subsidiary;

(14) Investments in Receivables Subsidiaries in the form of assets required in connection with a Permitted Receivables Financing (including the contribution or lending of cash and Cash Equivalents to Receivables Subsidiaries to finance the purchase of such assets from the Issuer or any Restricted Subsidiary or to otherwise fund required reserves);

(15) loans and advances to, or guarantees of Indebtedness of, officers, directors, managers, employees and consultants not in excess of the greater of (x) $15.0 million and (y) 4.0% of Consolidated EBITDA of the Issuer and its Restricted Subsidiaries as of the end of the Applicable Measurement Period, in the aggregate, outstanding at the time of such Investment;

(16) loans and advances to officers, directors, managers, employees and consultants for business-related travel expenses, moving or relocation expenses, entertainment, payroll advances and other analogous or similar expenses or payroll expenses, in each case incurred in the ordinary course of business or consistent with past practice, or to fund such Person's purchase of Equity Interests of the Issuer or any Parent Entity;

(17) advances, loans or extensions of trade credit (including the creation of receivables) or prepayments to suppliers or lessors or loans or advances made to distributors, and performance guarantees and Contingent Obligations incurred in the ordinary course of business or consistent with past practice;

(18) Investments consisting of purchases and acquisitions of assets or services in the ordinary course of business or consistent with past practice and any earnest money deposits in connection therewith;

(19) repurchases of the Notes;

(20) Investments in the ordinary course of business or consistent with past practice consisting of Uniform Commercial Code Article 3 endorsements for collection or deposit and Article 4 customary trade arrangements with customers consistent with past practices;

(21) Investments in (i) Unrestricted Subsidiaries having an aggregate fair market value (with the fair market value of such Investment being measured at the time of committing, declaring or determining to make such Investment and without giving effect to subsequent changes in value), taken together with all other Investments made, declared, committed or determined to be made (unless such declaration, commitment or determination has been rescinded, revoked or otherwise terminated) pursuant to this clause (21) that are at the time outstanding, without giving effect to the sale of an Unrestricted Subsidiary to the extent the proceeds of such sale do not consist of cash or marketable securities, not to exceed at the time of such Investment the greater of (x) $125.0 million and (y) 35.0% of Consolidated EBITDA of the Issuer and its Restricted Subsidiaries as of the end of the Applicable Measurement Period (the greater of such amounts, the "*Unrestricted Basket Amount*"); *provided*, *however*, that if any Investment pursuant to this clause (21) is made in any Person that is an Unrestricted Subsidiary at the date of the making of such Investment and such Person becomes a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (21), and (ii) without duplication with clause (i), an amount equal to the amount by which aggregate net cash proceeds from any sale or disposition of, or any distribution or returns in respect of, Investments made in reliance on clause (i) exceeds the Unrestricted Basket Amount and provided that such amount will not increase the amount available for Restricted Payments under Section 10.10(a)(3);

(22) [reserved];

(23) Investments of assets relating to non-qualified deferred payment plans in the ordinary course of business or consistent with past practice;

(24) intercompany current liabilities owed to Unrestricted Subsidiaries or joint ventures incurred in the ordinary course of business or consistent with past practice in connection with cash management operations of the Issuer and its Subsidiaries;

(25) any Investment in any Subsidiary or any joint venture in connection with intercompany cash management arrangements or related activities arising in the ordinary course of business or consistent with past practice;

(26) contributions to a "rabbi" trust for the benefit of employees, directors, managers, consultants, independent contractors or other service providers or other grantor trust subject to claims of creditors in the case of a bankruptcy of the Issuer or any Restricted Subsidiary;

(27) non-cash Investments in connection with tax planning and reorganization activities;

(28) guarantee obligations of the Issuer or any of its Restricted Subsidiaries in respect of leases (other than Capitalized Lease Obligations) or of other obligations that do not constitute Indebtedness, in each case, entered into in the ordinary course of business;

(29) guarantee obligations of the Issuer or any of its Restricted Subsidiaries in connection with the provision of credit card payment processing services; and

(30) any other Investment; *provided* that on a pro forma basis after giving effect to such Investment the Consolidated Total Debt Ratio of the Issuer for the Applicable Measurement Period would be equal to or less than 4.50 to 1.00.

"Permitted Liens" means:

(1) Liens for taxes, assessments or other governmental charges that are not overdue for a period of more than 60 days or not yet payable or subject to penalties for nonpayment or that are being contested in good faith by appropriate actions diligently conducted, if adequate reserves with respect thereto are maintained on the books of the Issuer or any of its Restricted Subsidiaries in accordance with GAAP, or for property taxes on property that the Issuer or any of its Restricted Subsidiaries has determined to abandon if the sole recourse for such tax, assessment, charge, levy or claim is to such property;

(2) Liens imposed by law or regulation, such as landlords', carriers', warehousemen's, mechanics', materialmen's, repairmen's, architects' or construction contractors' Liens and other similar Liens that secure amounts not overdue for a period of more than 60 days or, if more than 60 days overdue, are unfiled and no other action has been taken to enforce such Liens or that are being contested in good faith by appropriate actions or other Lien arising out of judgments or awards against the Issuer or any of its Restricted Subsidiaries with respect to which the Issuer or such Restricted Subsidiary shall then be proceeding with an appeal or other proceeding for review, if adequate reserves with respect thereto are maintained on the books of the Issuer or such Restricted Subsidiary in accordance with GAAP;

(3) Liens incurred or deposits made in the ordinary course of business or consistent with past practice (a) in connection with workers' compensation, unemployment insurance, employers' health tax, and other social security or similar legislation or other insurance related obligations (including, but not limited to, in respect of deductibles, self-insured retention amounts and premiums and adjustments thereto) and (b) securing reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees or similar instruments for the benefit of) insurance carriers providing property, casualty or liability insurance to the Issuer or any of its Restricted Subsidiaries or otherwise supporting the payment of items set forth in the foregoing clause (a);

(4) Liens incurred or deposits made to secure the performance of bids, tenders, trade contracts, governmental contracts, leases, public or statutory obligations, surety, indemnity, warranty, release, appeal or similar bonds or with respect to other regulatory requirements, completion guarantees, stay, customs and appeal bonds, performance bonds, bankers' acceptance facilities and other obligations of a like nature (including those to secure health, safety and environmental obligations), deposits as security for contested taxes or import duties or for payment of rent, performance and return of money bonds and obligations in respect of letters of credit, bank guarantees or similar instruments that have been posted to support the same, incurred in the ordinary course of business or consistent with past practice;

(5) minor survey exceptions, minor encumbrances, easements or reservations of, or rights of others for, rights-of-way, restrictions, encroachments, protrusions, servitudes, sewers, electric lines, drains, telegraph, telephone and cable television lines and other similar purposes, or zoning, building codes or other restrictions (including minor defects and irregularities in title and similar encumbrances) affecting real properties or Liens incidental to the conduct of the business of the Issuer and its Subsidiaries or to the ownership of their respective properties which were not incurred in connection with Indebtedness and which do not in any case materially interfere with the ordinary conduct of the business of the Issuer and its Subsidiaries, taken as a whole;

(6) Liens securing Indebtedness permitted to be incurred pursuant to Section 10.11(b)(5)(ii);

(7) Liens on goods the purchase price of which is financed by a documentary letter of credit issued for the account of the Issuer or any of its Restricted Subsidiaries or Liens on bills of lading, drafts or other documents of title arising by operation of law or pursuant to the standard terms of agreements relating to letters of credit, bank guarantees and other similar instruments; *provided* that such Lien secures only the obligations of the Issuer or such Restricted Subsidiaries in respect of such letter of credit to the extent such obligations are permitted under Section 10.11;

(8) (a) rights of set-off, banker's liens, netting agreements and other Liens arising by operation of law or by the terms of documents of banks or other financial institutions in relation to the maintenance of administration of deposit accounts, securities accounts, cash management arrangements or in connection with the issuance of letters of credit, bank guarantees or other similar instruments and (b) Liens securing, or otherwise arising from, judgments but not constituting an Event of Default under Section 5.01(5);

(9) Liens arising from Uniform Commercial Code financing statements, including precautionary financing statements, or any similar filings made in respect of operating leases or consignments entered into by the Issuer or any of its Restricted Subsidiaries;

(10) Liens securing Indebtedness incurred under Credit Facilities, including any letter of credit facility relating thereto, that was, at the time such Indebtedness is deemed to be incurred, permitted or deemed to be permitted by the terms of this Indenture to be incurred pursuant to Section 10.11(b)(1); *provided* that such Liens on any Collateral are subject to the terms of the Equal Priority Intercreditor Agreement;

(11) Liens existing on the Issue Date (other than Liens incurred in connection with the Senior Credit Facilities);

(12) Liens securing Indebtedness permitted to be incurred pursuant to clauses (4), (12), (14), (19) and (28) of Section 10.11(b); *provided* that (a) Liens securing Indebtedness permitted to be incurred pursuant to Section 10.11(b)(4) extend only to the assets purchased with the proceeds of such Indebtedness, accessions to such assets and the proceeds and products thereof, and any lease of such assets (including accessions thereto), the proceeds and the products thereof and customary security deposits in respect thereof; *provided*, *however*, that individual financings of equipment provided by one lender may be cross collateralized to other financings of equipment provided by such lender; (b) Liens securing Indebtedness permitted to be incurred pursuant to Section 10.11(b)(14) shall only be permitted if such Liens are limited to all or part of the same property or assets, including Capital Stock (plus improvements, accessions, proceeds or dividends or distributions in respect thereof, or replacements of any thereof) acquired, or of any Person acquired or merged, amalgamated or consolidated with or into the Issuer or any Restricted Subsidiary (including designating an Unrestricted Subsidiary as a Restricted Subsidiary), in any transaction to which such Indebtedness relates; (c) Liens securing Indebtedness permitted to be incurred pursuant to Section 10.11(b)(19) are solely on acquired property or Investment or extend only to the assets of the acquired entity, as the case may be, and the proceeds and products thereof; and (d) Liens securing Indebtedness permitted to be incurred pursuant to Section 10.11(b)(28) extend only to the assets of Restricted Subsidiaries that are not Guarantors;

(13) Leases (including leases of aircraft), licenses, subleases or sublicenses granted to others that do not (a) interfere in any material respect with the business of the Issuer and its Restricted Subsidiaries, taken as a whole or (b) secure any Indebtedness;

(14) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(15) Liens (a) of a collection bank arising under Section 4-210 of the Uniform Commercial Code or any comparable or successor provision on items in the course of collection, (b) attaching to pooling, commodity trading accounts or other commodity brokerage accounts incurred in the ordinary course of business or consistent with past practice and (c) in favor of a banking or other financial institution or electronic payment service providers arising as a matter of law or under general terms and conditions encumbering deposits (including the right of setoff) and that are within the general parameters customary in the banking or finance industry;

(16) Liens (a) on cash advances or escrow deposits in favor of the seller of any property to be acquired in an Investment permitted under this Indenture to be applied against the purchase price for such Investment or otherwise in connection with any escrow arrangements with respect to any such Investment (including any letter of intent or purchase agreement with respect to such investment), and (b) consisting of an agreement to sell, transfer, lease or otherwise dispose of any property in a transaction permitted under Section 10.17, in each case, solely to the extent such Investment or sale, disposition, transfer or lease, as the case may be, would have been permitted on the date of the creation of such Lien;

(17) Liens existing on property at the time of its acquisition (by a merger, consolidation or amalgamation or otherwise) or existing on the property or shares of stock or other assets of any Person at the time such Person becomes a Restricted Subsidiary (including designating an Unrestricted Subsidiary as a Restricted Subsidiary), in each case after the Issue Date; *provided* that (a) such Lien was not created in contemplation of such acquisition (by a merger, consolidation or amalgamation or otherwise) or such Person becoming a Restricted Subsidiary (including designating an Unrestricted Subsidiary as a Restricted Subsidiary), (b) such Lien does not extend to or cover any other assets or property of such Person or any Restricted Subsidiary (other than accessions to such assets or property, the proceeds or products thereof, any lease of such assets (including accessions thereto), the proceeds and the products thereof and customary security deposits in respect thereof and other than after-acquired property subject to a Lien securing Indebtedness and other obligations incurred prior to such time and which Indebtedness and other obligations are permitted under this Indenture that require or include, pursuant to their terms at such time, a pledge of after-acquired property, it being understood that such requirement shall not be permitted to apply to any property to which such requirement would not have applied but for such acquisition; *provided*, *however*, that individual financings of equipment provided by one lender may be cross collateralized to other financings of equipment provided by such lender) and (c) the Indebtedness secured thereby is permitted under Section 10.11;

(18) any interest or title of a lessor under leases (other than leases constituting Capitalized Lease Obligations) entered into by the Issuer or any of its Restricted Subsidiaries in the ordinary course of business or consistent with past practice;

(19) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale or purchase of goods by the Issuer or any of its Restricted Subsidiaries in the ordinary course of business or consistent with past practice;

(20) Liens deemed to exist in connection with Investments in repurchase agreements permitted under clause (5) of the definition of "Cash Equivalents;"

(21) Liens encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business and not for speculative purposes;

(22) Liens that are contractual rights of setoff or rights of pledge (a) relating to the establishment of depository relations with banks not given in connection with the incurrence of Indebtedness, (b) relating to pooled deposit or sweep accounts to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Issuer and its Restricted Subsidiaries or consistent with past practice or (c) relating to purchase orders and other agreements entered into with customers of the Issuer or any of its Restricted Subsidiaries in the ordinary course of business or consistent with past practice;

(23) ground leases, subleases, licenses or sublicenses in respect of real property on which facilities owned or leased by the Issuer or any of its Restricted Subsidiaries are located;

(24) (a) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto or (b) deposits made or other security provided to secure liabilities to insurance carriers under insurance or self-insurance arrangements in the ordinary course of business or consistent with past practice;

(25) Liens on cash, Cash Equivalents and Permitted Investments used to satisfy or discharge Indebtedness;

(26) Liens on receivables and related assets incurred in connection with Permitted Receivables Financings;

(27) (A) receipt of progress payments and advances from customers in the ordinary course of business or consistent with past practice to the extent the same creates a Lien on the related inventory and proceeds thereof and (B) Liens on specific items of inventory or other goods and proceeds of the Issuer or any of its Restricted Subsidiaries securing the Issuer's or such Restricted Subsidiary's accounts payable or similar trade obligations in respect of bankers' acceptances or documentary or trade letters of credit issued or created for the account of the Issuer or such Restricted Subsidiary to facilitate the purchase, shipment or storage of such inventory or other goods;

(28) Liens securing Hedging Obligations permitted to be incurred under this Indenture;

(29) Liens securing Obligations relating to any Indebtedness or other obligations of the Issuer or a Restricted Subsidiary owing to the Issuer or another Restricted Subsidiary permitted to be incurred in accordance with the covenant described under Section 10.11;

(30) Liens in favor of the Issuer or any Guarantor or the Trustee;

(31) Liens on vehicles or equipment of the Issuer or any of its Restricted Subsidiaries granted in the ordinary course of business or consistent with past practice;

(32) Liens to secure any modification, refinancing, refunding, restatement, exchange, extension, renewal or replacement (or successive refinancing, refunding, restatement, exchange, extensions, renewals or replacements) as a whole, or in part, of any Indebtedness secured by any Lien referred to in clauses (6), (11), (12), (16), (17), (32), (33) and (34) of this definition; *provided*, that (a) such new Lien shall be limited to all or part of the same property that secured the original Lien (plus accessions, additions and improvements on such property, including after-acquired property that is (i) affixed or incorporated into the property covered by such Lien, (ii) after-acquired property subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property (it being understood that such requirement shall not be permitted to apply to any property to which such requirement would not have applied but for such acquisition) and (iii) the proceeds and products thereof), (b) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (x) the outstanding principal amount or, if greater, committed amount of the Indebtedness described under clauses (6), (11), (12), (16), (17), (32), (33) and (34) of this definition at the time the original Lien became a Permitted Lien under this Indenture, and (y) an amount necessary to pay accrued but unpaid interest on such Indebtedness and any dividend, premium (including tender premiums), defeasance costs, underwriting discounts and any fees, costs and expenses (including upfront fees, original issue discount or similar fees) incurred in connection with such modification, refinancing, refunding, extension, renewal or replacement and (c) if such Liens are consensual Liens that are secured by the Collateral, then the Issuer may elect to have the holders of the Indebtedness or other obligations secured thereby (or a representative or trustee on their behalf) enter into the Equal Priority Intercreditor Agreement, a Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement, as applicable, providing that the Liens on the Collateral (other than cash and Cash Equivalents) securing such Indebtedness or

other obligations shall rank (i) if the Liens on the Collateral that secured the Indebtedness that was refinanced by such Refinancing Indebtedness ranked equal in priority with the Liens on the Collateral securing the Secured Notes Obligations, at the option of the Issuer, either equal in priority (but without regard to the control of remedies) with the Liens on the Collateral (other than cash and Cash Equivalents) securing the Secured Notes Obligations or junior in priority to the Liens on the Collateral securing the Secured Notes Obligations or (B) if the Liens on the Collateral that secured the Indebtedness that was refinanced by such Refinancing Indebtedness ranked junior in priority to the Liens on the Collateral securing the Secured Notes Obligations, junior in priority to the Liens on the Collateral securing the Secured Notes Obligations, but in any event, shall not be required to enter into any such intercreditor agreement with respect to any Collateral consisting of cash and Cash Equivalents;

(33) other Liens securing outstanding Indebtedness in an aggregate principal amount not to exceed, together with any Liens securing any modification, refinancing, refunding, restatement, exchange, extension, renewal or replacement (or successive modification, refinancing, refunding, restatement, exchange, extensions, renewals or replacements) pursuant to clause (32) above, the greater of (x) $180.0 million and (y) 50% of Consolidated EBITDA of the Issuer and its Restricted Subsidiaries as of the end of the Applicable Measurement Period at the time of incurrence; *provided* that, if such Liens are secured by the Collateral, then the holders of the Indebtedness or other obligations secured thereby (or a representative or trustee on their behalf) shall enter into the Equal Priority Intercreditor Agreement, a Junior Priority Intercreditor Agreement or an Acceptable Junior Priority Intercreditor Agreement, as applicable, providing that the Liens on the Collateral (other than cash and Cash Equivalents) securing such Indebtedness or other obligations shall rank, at the option of the Issuer, either equal in priority (but without regard to the control of remedies) with, or junior to, the Liens on the Collateral (other than cash and Cash Equivalents) securing the Secured Notes Obligations, but, in any event, shall not be required to enter into any such intercreditor agreement with respect to any Collateral consisting of cash and Cash Equivalents;

(34) Liens incurred to secure Obligations in respect of any Indebtedness permitted to be incurred pursuant to the covenant described above under Section 10.11; *provided* that, with respect to Liens securing Obligations permitted under this clause (34), at the time of incurrence of such Obligations and after giving pro forma effect thereto, the Consolidated Secured Debt Ratio of the Issuer for the Applicable Measurement Period would be no greater than 4.50 to 1.00; *provided* that, if such Liens are secured by the Collateral, then the holders of the Indebtedness or other obligations secured thereby (or a representative or trustee on their behalf) shall enter into the Equal Priority Intercreditor Agreement, a Junior Priority Intercreditor Agreement or an Acceptable Junior Priority Intercreditor Agreement, as applicable, providing that the Liens on the Collateral (other than cash and Cash Equivalents) securing such Indebtedness or other obligations shall rank, at the option of the Issuer, either equal in priority (but without regard to the control of remedies) with, or junior to, the Liens on the Collateral (other than cash and Cash Equivalents) securing the Secured Notes Obligations, but, in any event, shall not be required to enter into any such intercreditor agreement with respect to any Collateral consisting of cash and Cash Equivalents;

(35) (a) any encumbrance or restriction (including put and call arrangements) with respect to Capital Stock of any joint venture or similar arrangement pursuant to any joint venture or similar agreement, (b) Liens on Equity Interests in joint ventures; *provided* that any such Lien is in favor of a creditor of such joint venture and such creditor is not an Affiliate of any partner to such joint venture and (c) purchase options, call, and similar rights of, and restrictions for the benefit of, a third party with respect to Equity Interests held by the Issuer or any of its Subsidiaries in joint ventures;

(36) Liens on Capital Stock of an Unrestricted Subsidiary that secure Indebtedness or other obligations of such Unrestricted Subsidiary;

(37) agreements to subordinate any interest of the Issuer or any Restricted Subsidiary in any accounts receivable or other proceeds arising from inventory consigned by the Issuer or any Restricted Subsidiary pursuant to an agreement entered into in the ordinary course of business or consistent with past practice;

(38) Liens on property or assets used to defease or to irrevocably satisfy and discharge Indebtedness;

(39) Liens securing the Notes (other than any Additional Notes) and the related Note Guarantees;

(40) [reserved];

(41) Liens created in connection with a project financed with, and created to secure, Non-Recourse Indebtedness;

(42) Liens relating to future escrow arrangements securing Indebtedness, including (i) Liens on escrowed proceeds from the issuance of Indebtedness for the benefit of the related holders of debt securities or other Indebtedness (or the underwriters, arrangers, trustee or collateral agent thereof) and (ii) Liens on cash or Cash Equivalents set aside at the time of the incurrence of any Indebtedness, in either case to the extent such cash or Cash Equivalents prefund the payment of interest or premium or discount on such Indebtedness (or any costs related to the issuance of such Indebtedness) and are held in an escrow account or similar arrangement to be applied for such purpose;

(43) security given to a public utility or any municipality or governmental authority when required by such utility or authority in connection with the operations of the Issuer or any of its Restricted Subsidiaries in the ordinary course of business or consistent with past practice;

(44) Liens securing Cash Management Obligations owed by the Issuer or any of its Restricted Subsidiaries to any lender under the Senior Credit Facilities or any Affiliate of such a lender;

(45) Liens solely on any cash earnest money deposits made by the Issuer or any of its Restricted Subsidiaries in connection with any letter of intent or purchase agreement;

(46) servicing agreements, development agreements, site plan agreements, subdivision agreements and other agreements with governmental authorities pertaining to the use or development of any of the real property of the Issuer or any of its Restricted Subsidiaries (including obligations to deliver letters of credit and other security) that do not materially interfere with the ordinary conduct of the business of the Issuer and its Restricted Subsidiaries; and

(47) the right reserved to or vested in any governmental authority by any statutory provision or by the terms of any lease, license, franchise, grant or permit of the Issuer or any of its Restricted Subsidiaries, to terminate any such lease, license, franchise, grant or permit, or to require annual or other payments as a condition to the continuation thereof.

For purposes of determining compliance with this definition, (i) a Lien need not be incurred solely by reference to one category of Permitted Liens described in this definition but are permitted to be incurred in part under any combination thereof and of any other available exemption, (ii) in the event that a Lien (or any portion thereof) meets the criteria of one or more of the categories of Permitted Liens, the Issuer shall, in its sole discretion, classify or reclassify such Lien (or any portion thereof) in any manner that complies with this definition and (iii) in the event that a portion of Indebtedness secured by a Lien could be classified as secured in part pursuant to clause (34) above (giving pro forma effect only to the incurrence of such portion of such Indebtedness), the Issuer, in its sole discretion, may classify such portion of such Indebtedness (and any Obligations in respect thereof) as having been secured pursuant to clause (34) above and thereafter the remainder of the Indebtedness as having been secured pursuant to one or more of the other clauses of this definition.

For purposes of this definition, the term "Indebtedness" shall be deemed to include interest on such Indebtedness.

"Permitted Parent" means (a) any Parent Entity that at the time it became a Parent Entity of the Issuer was a Permitted Holder pursuant to clause (1) of the definition thereof and was not formed in connection with, or in contemplation of, a transaction that would otherwise constitute a Change of Control and (b) any Public Company (or Wholly-Owned Subsidiary of such Public Company), except to the extent (and until such time as) any Person or group (other than a Permitted Holder) is deemed to be or becomes a beneficial owner of Voting Stock of such Public Company representing more than 50% of the total voting power of the Voting Stock of such Public Company (as determined in accordance with the provisions of the final paragraph of the definition of "Change of Control").

"Permitted Plan" means any employee benefits plan of the Issuer or any of its Affiliates and any Person acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan.

"Permitted Receivables Financing" means, collectively, (i) with respect to receivables of the type constituting any term securitizations, receivables securitizations or other receivables financings (including any factoring program), in each case that are non-recourse to the Issuer and its Restricted Subsidiaries (except for any customary limited recourse that is applicable only to Subsidiaries that are not Guarantors, that is customary in the relevant local market, and reasonable extensions thereof) and (ii) with respect to receivables (including, without limitation, trade and lease receivables) not otherwise constituting term securitizations, other receivables securitizations or other similar financings (including any factoring program), in each case in an amount not to exceed 85% of the book value of all accounts receivable of the Issuer and its Restricted Subsidiaries as of any date and that are non-recourse to the Issuer and its Restricted Subsidiaries (except for any customary limited recourse that is applicable only to Subsidiaries that are not Guarantors, that is customary in the relevant local market; provided that with respect to Permitted Receivables Financings incurred in the form of a factoring program under this clause (ii), the outstanding amount of such Permitted Receivables Financing for the purposes of this definition shall be deemed to be equal to the Permitted Receivables Net Investment for the last Applicable Measurement Period).

"Permitted Receivables Net Investment" means the aggregate cash amount paid by the purchasers under any Permitted Receivables Financing in the form of a factoring program in connection with their purchase of accounts receivable and customary related assets or interests therein, as the same may be reduced from time to time by collections with respect to such accounts receivable and related assets or otherwise in accordance with the terms of such Permitted Receivables Financing (but excluding any such collections used to make payments of commissions, discounts, yield and other fees and charges incurred in connection with any Permitted Receivables Financing in the form of a factoring program which are payable to any Person other than the Issuer or any of its Restricted Subsidiaries).

"Permitted Transferees" means, with respect to any Person that is a natural person (and any Permitted Transferee of such Person), (a) such Person's Immediate Family Members, including his or her spouse, ex-spouse, children, step-children and their respective lineal descendants, and (b) without duplication with any of the foregoing, such Person's heirs, executors and/or administrators upon the death of such Person and any other Person who was an Affiliate of such Person upon the death of such Person and who, upon such death, directly or indirectly owned Equity Interests in the Issuer and any of its Parent Entities.

"Person" means any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

"Predecessor Note" of any particular Note means every previous Note evidencing all or a portion of the same debt as that evidenced by such particular Note; and, for the purposes of this definition, any Note authenticated and delivered under Section 3.06 in exchange for a mutilated Note or in lieu of a destroyed, lost or stolen Note shall be deemed to evidence the same debt as the mutilated, destroyed, lost or stolen Note.

"Preferred Stock" means any Equity Interest with preferential rights of payment of dividends or upon liquidation, dissolution, or winding up.

"Protected Purchaser" has the meaning specified in Section 3.06 of this Indenture.

"Public Company" means any Person with a class or series of Voting Stock that is traded on the New York Stock Exchange or the NASDAQ.

"Purchase Money Obligations" means any Indebtedness incurred to finance or refinance the acquisition, leasing, construction or improvement of property (real or personal) or assets (other than Capital Stock), and whether acquired through the direct acquisition of such property or assets, or otherwise (including through the purchase of Capital Stock of any Person owning such property or assets). "Qualified Proceeds" means assets that are used or useful in, or Capital Stock of any Person engaged in, a Similar Business.

"Rating Agency" means (1) S&P, Fitch and Moody's or (2) if S&P, Fitch or Moody's or each of them shall not make a corporate rating with respect to the Issuer or a rating on the Notes publicly available, a nationally recognized statistical rating agency or agencies, as the case may be, selected by the Issuer, which shall be substituted for any or all of S&P, Fitch or Moody's, as the case may be, with respect to such corporate rating or the rating of the Notes, as the case may be.

"Receivables Fees" means distributions or payments made directly or by means of discounts with respect to any accounts receivable or participation interest therein issued or sold in connection with, and other fees paid to a Person that is not a Receivables Subsidiary in connection with, any Permitted Receivables Financing.

"Receivables Subsidiary" means any Special Purpose Entity established in connection with a Permitted Receivables Financing.

"Redemption Date" has the meaning specified in Section 11.01 of this Indenture.

"Redemption Price", when used with respect to any Note to be redeemed, means the price at which it is to be redeemed pursuant to this Indenture.

"refinance" has the meaning specified in Section 10.11(b) of this Indenture.

"Refinancing Indebtedness" has the meaning specified in Section 10.11(b) of this Indenture.

"Refinancing Transactions" has the meaning set forth in "Summary—The Refinancing Transactions" in the Offering Memorandum.

"Refunding Capital Stock" has the meaning specified in Section 10.10(b) of this Indenture.

"Regular Record Date" has the meaning specified in Section 3.01 of this Indenture.

"Related Business Assets" means assets (other than cash or Cash Equivalents) used or useful in a Similar Business; *provided* that any assets received by the Issuer or a Restricted Subsidiary in exchange for assets transferred by the Issuer or a Restricted Subsidiary shall not be deemed to be Related Business Assets if they consist of securities of a Person, unless upon receipt of the securities of such Person, such Person would become a Restricted Subsidiary.

"Requirements of Law" means, with respect to any Person, any statutes, laws, treaties, rules, regulations, orders, decrees, writs, injunctions or determinations of any arbitrator or 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" means, when used with respect to the Trustee, any vice president, assistant vice president, any trust officer or any other officer within the corporate trust department of the Trustee (or any successor group of the Trustee) with direct responsibility for the administration of this Indenture and also means, with respect to a particular corporate trust matter hereunder, any other officer of the Trustee to whom such matter is referred because of his or her knowledge of and familiarity with the particular subject.

"Restricted Investment" means an Investment other than a Permitted Investment.

"Restricted Payments" has the meaning specified in Section 10.10 of this Indenture.

"Restricted Subsidiary" means, at any time, with respect to any Person, any direct or indirect Subsidiary of such Person (including any Foreign Subsidiary) that is not then an Unrestricted Subsidiary; *provided*, *however*, that upon the occurrence of an Unrestricted Subsidiary ceasing to be an Unrestricted Subsidiary, such Subsidiary shall be included in the definition of "Restricted Subsidiary." Unless the context otherwise requires, any references to Restricted Subsidiary refer to a Restricted Subsidiary of the Issuer.

"Reversion Date" has the meaning specified in Section 10.19 of this Indenture.

"S&P" means S&P Global Ratings and any successor by merger or consolidation to its rating agency business.

"Sale and Lease-Back Transaction" means any arrangement with any Person providing for the leasing by the Issuer or any of its Restricted Subsidiaries of any real property or tangible personal property, which property has been or is to be sold or transferred by the Issuer or such Restricted Subsidiary to a third Person in contemplation of such leasing.

"SEC" means the U.S. Securities and Exchange Commission or any successor agency thereto.

"Second Commitment" has the meaning specified in Section 10.17 of this Indenture.

"Secured Indebtedness" means any Indebtedness of the Issuer or any of its Restricted Subsidiaries secured by a Lien.

"Secured Notes Obligations" means Obligations in respect of the Notes, this Indenture, the Note Guarantees and the Security Documents relating to the Notes.

"Secured Notes Secured Parties" means the Trustee, the Notes Collateral Agent and the Holders.

"Securities Act" means the U.S. Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

"Security Agreement" means that certain Pledge and Security Agreement, dated as of the Issue Date, among the Issuer, the Guarantors and the Notes Collateral Agent.

"Security Documents" means, collectively, the Security Agreement, other security agreements relating to the Collateral securing the Secured Notes Obligations and the mortgages and instruments filed and recorded in appropriate jurisdictions to preserve and protect the Liens on the Collateral securing the Secured Notes Obligations (including, without limitation, financing statements under the Uniform Commercial Code of the relevant states), each for the benefit of the Notes Collateral Agent, the Trustee and the Holders of the Notes, as amended, restated, renewed, replaced or otherwise modified from time to time.

"Senior Credit Facilities" means the new revolving credit facility and the new term loan facility under the credit agreement to be entered into on or around the Issue Date by and among the Issuer, the guarantors party thereto, the lenders party thereto and the other agents party thereto as the same may be in effect from time to time, including, in each case, any related notes, mortgages, letters of credit, guarantees, collateral documents, instruments and agreements executed in connection therewith, and any appendices, exhibits, annexes or schedules to any of the foregoing (as the same may be in effect from time to time) and any amendments, supplements, modifications, extensions, renewals, restatements, refundings, replacements, exchanges or refinancings thereof, in whole or in part, and any financing arrangements that amend, supplement, modify, extend, renew, restate, refund, replace, exchange or refinance any part thereof, including, without limitation, any such amended, supplemented, modified, extended, renewed, restated, refunding, replacement, exchanged or refinancing financing arrangement that increases the amount permitted to be borrowed or issued thereunder or alters the maturity thereof or adds Subsidiaries as additional borrowers or guarantors thereunder and whether by the same or any other agent, trustee, lender or group of lenders, investors, holders or otherwise.

"Senior Credit Facilities Collateral Agent" means the collateral agent for the lenders and other secured parties under the Senior Credit Facilities, together with its successors and permitted assigns under the Senior Credit Facilities.

"Senior Credit Facilities Secured Parties" means the "Secured Parties" as defined in the Senior Credit Facilities.

"Senior Credit Facility Obligations" means the "Secured Obligations" as defined in the Senior Credit Facilities.

"Senior Indebtedness" means:

(1) all Indebtedness of the Issuer or any Guarantor outstanding under the Senior Credit Facilities or Notes and related Note Guarantees (including interest accruing on or after the filing of any petition in bankruptcy or similar proceeding or for reorganization of the Issuer or any Guarantor (at the rate provided for in the documentation with respect thereto, regardless of whether or not a claim for post-filing interest is allowed in such proceedings)), and any and all other fees, expense reimbursement obligations, indemnification amounts, penalties, and other amounts (whether existing on the Issue Date or thereafter created or incurred) and all obligations of the Issuer or any Guarantor to reimburse any bank or other Person in respect of amounts paid under letters of credit, acceptances or other similar instruments;

(2) all (a) Hedging Obligations (and guarantees thereof) and (b) Cash Management Obligations (and guarantees thereof); *provided* that such Hedging Obligations and Cash Management Obligations, as the case may be, are permitted to be incurred under the terms of this Indenture;

(3) any other Indebtedness of the Issuer or any Guarantor permitted to be incurred under the terms of this Indenture, unless the instrument under which such Indebtedness is incurred expressly provides that it is subordinated in right of payment to the Notes or any related Note Guarantee; and

(4) all Obligations with respect to the items listed in the preceding clauses (1), (2) and (3);

provided, however, that Senior Indebtedness shall not include:

(a) any obligation of such Person to the Issuer or any of its Subsidiaries;

(b) any liability for federal, state, local or other taxes owed or owing by such Person;

(c) any accounts payable or other liability to trade creditors arising in the ordinary course of business;

(d) any Indebtedness or other Obligation of such Person which is subordinate or junior in right of payment to any other Indebtedness or other Obligation of such Person; or

(e) that portion of any Indebtedness which at the time of incurrence is incurred in violation of this Indenture.

"Senior Lien Priority" means, with respect to specified indebtedness, that such indebtedness is secured by a Lien that is senior in priority to the Liens on the Collateral securing the Junior Priority Obligations, including the Liens securing the Equal Priority Obligations, and is subject to the Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement.

"Senior Priority Collateral Agent" means the Senior Priority Representative for the holders of any initial Senior Priority Obligations.

"Senior Priority Obligations" means (x) the Equal Priority Obligations and (y) any Obligations with respect to any Indebtedness having a Junior Lien Priority relative to the Notes and the Note Guarantees with respect to the Collateral and having Senior Lien Priority relative to the Junior Priority Obligations; provided, that the holders of such Indebtedness or their Senior Priority Representative shall become party to the Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement and any other applicable intercreditor agreements.

"Senior Priority Representative" means any duly authorized representative of any holders of Senior Priority Obligations, which representative is named as such in the Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement or any joinder thereto.

"Senior Priority Secured Parties" means the holders from time to time of any Senior Priority Obligations, the Senior Priority Collateral Agent and each other Senior Priority Representative.

"Senior Priority Security Agreement" means any security agreement covering a portion of the Collateral to be entered into by the Issuer, the Guarantors and a Senior Priority Representative.

"Senior Priority Security Documents" means, collectively, the Senior Priority Security Agreement, other security agreements relating to the Collateral securing such Senior Priority Obligations and the mortgages and instruments filed and recorded in appropriate jurisdictions to preserve and protect the Liens on the Collateral securing such Senior Priority Obligations (including, without limitation, financing statements under the Uniform Commercial Code of the relevant states), as amended, restated, renewed, replaced or otherwise modified from time to time.

"Series" means (1) with respect to the Equal Priority Secured Parties, each of (i) the Senior Credit Facilities Secured Parties (in their capacities as such), (ii) the Secured Notes Secured Parties (in their capacity as such) and (iii) the Additional Equal Priority Secured Parties that are represented by a common representative (in its capacity as such for such Additional Equal Priority Secured Parties) and (2) with respect to any Equal Priority Obligations, each of (i) the Senior Credit Facility Obligations, (ii) the Secured Notes Obligations and (iii) the Additional Equal Priority Obligations incurred pursuant to any applicable agreement, which are to be represented under the Equal Priority Intercreditor Agreement (or under such other intercreditor agreement having substantially similar terms as the Equal Priority Intercreditor Agreement, taken as a whole, that replaces the Equal Priority Intercreditor Agreement) by a common representative (in its capacity as such for such Additional Equal Priority Obligations).

"Shared Collateral" means, at any time, Collateral in which the holders of two or more Series of Equal Priority Obligations hold a valid and perfected security interest at such time. If more than two Series of Equal Priority Obligations are outstanding at any time and the holders of less than all Series of Equal Priority Obligations hold a valid and perfected security interest in any Collateral at such time, then such Collateral shall constitute Shared Collateral for those Series of Equal Priority Obligations that hold a valid security interest in such Collateral at such time and shall not constitute Shared Collateral for any Series that does not have a valid and perfected security interest in such Collateral at such time.

"Significant Subsidiary" means any Restricted Subsidiary that would be a "Significant Subsidiary" of the Issuer within the meaning under Rule 1-02(w)(1) or (2) of Regulation S-X promulgated by the SEC.

"Similar Business" means any business conducted or proposed to be conducted by the Issuer and its Restricted Subsidiaries on the Issue Date or any business that is similar, complementary, reasonably related, synergistic, incidental or ancillary thereto, or is a reasonable extension, development or expansion thereof.

"Special Purpose Entity" means a direct or indirect Subsidiary of the Issuer, whose Organizational Documents contain restrictions on its purpose and activities and impose requirements intended to preserve its separateness from the Issuer and/or one or more Subsidiaries of the Issuer.

"Special Record Date" for the payment of any Defaulted Interest means a date fixed by the Trustee pursuant to Section 3.07(b).

"Specified Event" has the meaning given to such term in the definition of "Consolidated EBITDA."

"Stated Maturity", when used with respect to any Note or any installment of principal thereof or interest thereon, means the date specified in such Note as the fixed date on which the principal of such Note or such installment of principal or interest is due and payable.

"Subordinated Indebtedness" means, with respect to the Notes and the Note Guarantees:

(1) any Indebtedness of the Issuer which is by its terms subordinated in right of payment to the Notes, and

(2) any Indebtedness of any Guarantor which is by its terms subordinated in right of payment to the Note Guarantee of such entity of the Notes.

"Subsidiary" means, with respect to any Person,

(1) any corporation, association or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time of determination owned, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof; and

(2) any partnership, joint venture, limited liability company or similar entity of which

(a) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, are owned, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof whether in the form of membership, general, special or limited partnership or otherwise, and

(b) such Person or any Restricted Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

For the avoidance of doubt, any entity that is owned at a 50% or less level (as described above) shall not be a "Subsidiary" for any purpose under this Indenture, regardless of whether such entity is consolidated on the Issuer's or any of its Restricted Subsidiaries' financial statements.

"Successor Company" has the meaning specified in Section 8.01 of this Indenture.

"Successor Guarantor" has the meaning specified in Section 8.02 of this Indenture.

"Suspended Covenants" has the meaning specified in Section 10.19(a) of this Indenture.

"Suspension Period" has the meaning specified in Section 10.19(a) of this Indenture.

"Total Assets" means, as of any Applicable Calculation Date, with respect to any Person and its Restricted Subsidiaries, the total assets of such Person and its Restricted Subsidiaries on a consolidated basis, as shown on the most recent consolidated balance sheet of such Person and its Restricted Subsidiaries as of the end of the most recent fiscal quarter for which internal financial statements are available immediately preceding the Applicable Calculation Date; *provided* that, for purposes of testing the covenants under this Indenture in connection with any transaction, the Total Assets of such Person and its Restricted Subsidiaries shall be adjusted to reflect such pro forma adjustments as are appropriate and consistent with the pro forma adjustment provisions set forth in the definition of Fixed Charge Coverage Ratio (other than as set forth in the first proviso to the first paragraph of such definition).

"Treasury Capital Stock" has the meaning specified in Section 10.10(b) of this Indenture.

"Treasury Rate" means, as obtained by the Issuer, as of any Redemption Date, the yield to maturity as of such Redemption Date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to the Redemption Date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from such Redemption Date to April 15, 2024; *provided*, *however*, that if the period from such Redemption Date to April 15, 2024 is less than one year, the weekly average yield on actively traded United States Treasury securities adjusted to a constant maturity of one year will be used.

"Trust Indenture Act" or "TIA" means the Trust Indenture Act of 1939, as amended.

"Trustee" means The Bank of New York Mellon until a successor replaces it and, thereafter, means the successor.

"Uniform Commercial Code" or "UCC" means the Uniform Commercial Code (or any similar or equivalent legislation) as in effect in any applicable jurisdiction.

"Unrestricted Subsidiary" means:

(1) any Subsidiary of the Issuer which at the time of determination is an Unrestricted Subsidiary (as designated by the Issuer, as provided below); and

(2) any Subsidiary of an Unrestricted Subsidiary.

The Issuer may designate any Subsidiary of the Issuer (including any existing Subsidiary and any newly acquired or newly formed Subsidiary) to be an Unrestricted Subsidiary unless such Subsidiary or any of its Subsidiaries owns any Equity Interests or Indebtedness of, or owns or holds any Lien on, any property of, the Issuer or any Restricted Subsidiary (other than solely any Subsidiary of the Subsidiary to be so designated); *provided* that

(1) any Unrestricted Subsidiary must be an entity of which the Equity Interests entitled to cast at least a majority of the votes that may be cast by all Equity Interests having ordinary voting power for the election of directors or Persons performing a similar function are owned, directly or indirectly, by the Issuer;

(2) such designation complies with Section 10.10;

(3) immediately after giving effect to such designation, no Default or Event of Default shall have occurred and be continuing;

(4) on the date such Subsidiary is so designated, no Suspended Covenants shall be suspended pursuant to Section 10.19 unless such designation would have complied with Section 10.10 as if such covenant was in effect for the purposes of designating Unrestricted Subsidiaries from the Issue Date to the date of such designation; and

(5) each of:

(a) the Subsidiary to be so designated; and

(b) its Subsidiaries has not at the time of designation, and does not thereafter, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable with respect to any Indebtedness pursuant to which the lender has recourse to any of the assets of the Issuer or any Restricted Subsidiary (other than Equity Interests in the Unrestricted Subsidiary).

If at any time any Unrestricted Subsidiary would fail to meet any of the preceding requirements, it will immediately thereafter cease to be an Unrestricted Subsidiary for purposes of this Indenture and any Indebtedness, Investments, or Liens on the property of such Subsidiary will be deemed to be incurred or made by a Restricted Subsidiary as of such date and, if such Indebtedness, Investments or Liens are not permitted to be incurred or made as of such date under this Indenture, the Issuer will be in Default under this Indenture.

The Issuer may designate any Unrestricted Subsidiary to be a Restricted Subsidiary; *provided* that, immediately after giving effect to such designation, no Default shall have occurred and be continuing and either:

(1) the Issuer could incur at least $1.00 of additional Indebtedness pursuant to either (x) the Fixed Charge Coverage Ratio test; or (y) the Consolidated Total Debt Ratio test, in each case, described in Section 10.11(a); or

(2) either (x) the Fixed Charge Coverage Ratio for the Issuer and its Restricted Subsidiaries would be equal to or greater than such ratio or (y) the Consolidated Total Debt Ratio test for the Issuer and its Restricted Subsidiaries would be equal to or less than such ratio, in each case, for the Issuer and its Restricted Subsidiaries immediately prior to such designation, on a pro forma basis taking into account such designation.

Any such designation by the Issuer shall be notified by the Issuer to the Trustee by promptly filing with the Trustee an Officer's Certificate certifying that such designation complied with the foregoing provisions.

"U.S. Government Obligations" means securities that are:

(1) direct obligations of, or obligations guaranteed by, the United States of America for the timely payment of which its full faith and credit is pledged; or

(2) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the timely payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America, which, in either case, are not callable or redeemable at the option of the issuers thereof, and shall also include a depository receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act), as custodian with respect to any such U.S. Government Obligations or a specific payment of principal of or interest on any such U.S. Government Obligations held by such custodian for the account of the holder of such depository receipt; *provided* that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the U.S. Government Obligations or the specific payment of principal of or interest on the U.S. Government Obligations evidenced by such depository receipt.

"U.S. Person" means a U.S. Person as defined in Rule 902(k) promulgated under the Securities Act.

"Vice President", when used with respect to the Issuer or the Trustee, means any vice president, whether or not designated by a number or a word or words added before or after the title "vice president".

"Voting Stock" of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of such Person.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness, Disqualified Stock or Preferred Stock, as the case may be, at any date, the quotient obtained by dividing:

(1) the sum of the products of the number of years (calculated to the nearest one-twelfth) from the date of determination to the date of each successive scheduled principal payment of such Indebtedness or redemption or similar payment with respect to such Disqualified Stock or Preferred Stock multiplied by the amount of such payment; by

(2) the sum of all such payments.

"Wholly-Owned Restricted Subsidiary" of any Person means a Wholly-Owned Subsidiary of such Person that is a Restricted Subsidiary.

"Wholly-Owned Subsidiary" of any Person means a Subsidiary of such Person, 100% of the outstanding Equity Interests of which (other than directors' qualifying shares and shares issued to foreign nationals as required by applicable law) shall at the time be owned by such Person or by one or more Wholly-Owned Subsidiaries of such Person.

SECTION 1.03. Compliance Certificates and Opinions Upon any application or request by the Issuer to the Trustee to take or refrain from taking any action under this Indenture, the Issuer shall furnish to the Trustee an Officer's Certificate stating that all conditions precedent, if any, provided for in this Indenture (including any covenant compliance which constitutes a condition precedent) relating to the proposed action have been complied with and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent, if any, have been complied with, except that in the case of any such application or request as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or request, no additional certificate or opinion need be furnished.

Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

(1) a statement that each individual signing such certificate or opinion has read such covenant or condition and the definitions herein relating thereto;

(2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(3) a statement that, in the opinion of each such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(4) a statement as to whether, in the opinion of each such individual, such condition or covenant has been complied with.

SECTION 1.04. Form of Documents Delivered to Trustee. In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an officer of the Issuer may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any such certificate or opinion may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Issuer stating that the information with respect to such factual matters is in the possession of the Issuer, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

SECTION 1.05. Acts of Holders.

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agents duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Issuer. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and conclusive in favor of the Trustee and the Issuer, if made in the manner provided in this Section.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by a signer acting in a capacity other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner that the Trustee deems sufficient.

(c) The principal amount and serial numbers of Notes held by any Person, and the date of holding the same, shall be proved by the Note Register.

(d) If the Issuer shall solicit from the Holders any request, demand, authorization, direction, notice, consent, waiver or other Act, the Issuer may, at its option, fix in advance a record date for the determination of Holders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other Act, but the Issuer shall have no obligation to do so. Such record date shall be a date not earlier than the date 30 days prior to the first solicitation of Holders generally in connection therewith and not later than the date such solicitation is completed. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other Act may be given before or after such record date, but only the Holders of record at the close of business on such record date shall be deemed to be Holders for the purposes of determining whether Holders of the requisite proportion of Outstanding Notes have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other Act, and for that purpose the Outstanding Notes shall be computed as of such record date; provided, that no such authorization, agreement or consent by the Holders on such record date shall be deemed effective unless it shall become effective pursuant to the provisions of this Indenture not later than eleven months after the record date. Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Note shall bind every future Holder of the same Note and the Holder of every Note issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee, the Issuer or any Guarantor in reliance thereon, whether or not notation of such action is made upon such Note.

SECTION 1.06. Notices, Etc., to Trustee, Issuer, any Guarantor and Agent. Any request, demand, authorization, direction, notice, consent, waiver or Act of Holders or other document provided or permitted by this Indenture to be made upon, given or furnished to, or filed with,

(1) the Trustee by any Holder or by the Issuer or any Guarantor shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing via facsimile, email in PDF format or mailed, first class postage prepaid, or delivered by recognized overnight courier, to or with the Trustee at the Corporate Trust Office, or

(2) the Issuer or any Guarantor by the Trustee or by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if made, given, furnished or delivered in writing via facsimile, or email in PDF or mailed, first class postage prepaid, or delivered by recognized overnight courier, to the Issuer or such Guarantor addressed to WW International, Inc., 675 Avenue of the Americas, 6th Floor, New York, New York 10010, Facsimile: 212-589-2858, Attention: General Counsel and Secretary or at any other address previously furnished in writing to the Trustee by the Issuer or such Guarantor.

A copy of all notices to any Agent shall be sent to the Trustee at the address show above. Any Person may change it address by giving notice of such change as set forth herein.

SECTION 1.07. Notice to Holders; Waiver. Where this Indenture provides for notice of any event to Holders by the Issuer or the Trustee, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and delivered electronically or mailed, first class postage prepaid, to each Holder affected by such event, at his address as it appears in the Note Register, not later than the latest date, and not earlier than the earliest date, prescribed for the giving of such notice. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Notices given by publication (including posting of information as contemplated by Section 10.09) shall be deemed given on the first date on which publication is made, and notices given by first-class mail, postage prepaid, shall be deemed given five calendar days after mailing. Notices sent by overnight delivery service will be deemed given on the next Business Day after timely delivery to the courier and notices given electronically shall be deemed given when receipt is acknowledged. Notice otherwise given in accordance with the procedures of the Depository will be deemed given on the date sent to the Depository. Any notices required to be given to the holders of Notes that are in global form will be given to the Depository in accordance with its customary procedures therefor.

The Trustee shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Indenture and delivered using Electronic Means; provided, however, that the Issuer shall provide to the Trustee an incumbency certificate listing officers with the authority to provide such Instructions ("Authorized Officers") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Issuer whenever a person is to be added or deleted from the listing. If the Issuer elects to give the Trustee Instructions using Electronic Means and the Trustee in its discretion elects to act upon such Instructions, the Trustee's understanding of such Instructions shall be deemed controlling. The Issuer understands and agrees that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The Issuer shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee and that the Issuer and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys of the Issuer. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Issuer agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Issuer; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.

Notwithstanding any other provision of this Indenture or any Note, where this Indenture or any Note provides for notice of any event or any other communication (including any notice of redemption or repurchase) to a Holder of a Global Note (whether by mail or otherwise), such notice shall be sufficiently given if given to the Depository (or its designee) pursuant to the standing instructions from the Depository or its designee, including by electronic mail in accordance with accepted practices at the Depository.

In case by reason of the suspension of or irregularities in regular mail service or by reason of any other cause, it shall be impracticable to mail notice of any event to Holders when such notice is required to be given pursuant to any provision of this Indenture, then any manner of giving such notice as shall be satisfactory to the Trustee shall be deemed to be a sufficient giving of such notice for every purpose hereunder.

Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

If a notice or communication is mailed in the manner provided in this Section 1.07 within the time prescribed, it is duly given, whether or not the addressee receives it except in the case of notices or communications given to the Trustee, which shall be effective only upon actual receipt by the Trustee at its Corporate Trust Office.

SECTION 1.08. Effect of Headings and Table of Contents. The Article and Section headings herein and the Table of Contents are for convenience of reference only, are not intended to be considered a part hereof and shall not affect the construction hereof.

SECTION 1.09. Successors and Assigns. All agreements of the Issuer in this Indenture and the Notes will bind its successors. All agreements of the Trustee in this Indenture will bind its successors. All agreements of each Guarantor in this Indenture will bind its successors, except as otherwise provided in Section 12.08 hereof.

SECTION 1.10. Severability Clause. In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 1.11. Benefits of Indenture. Nothing in this Indenture or in the Notes, express or implied, shall give to any Person, other than the parties hereto, any Paying Agent, any Note Registrar and their successors hereunder and the Holders any benefit or any legal or equitable right, remedy or claim under this Indenture.

SECTION 1.12. Governing Law; Submission to Jurisdiction. This Indenture, the Notes, the Note Guarantees, the Equal Priority Intercreditor Agreement, any Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement will be governed by, and construed in accordance, with the laws of the State of New York. THE PARTIES HERETO AGREE TO SUBMIT TO THE JURISDICTION OF ANY UNITED STATES FEDERAL OR STATE COURT LOCATED IN THE BOROUGH OF MANHATTAN, IN THE CITY OF NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTE GUARANTEES, OR THE NOTES AND IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, JURISDICTION OF THE AFORESAID COURTS.

SECTION 1.13. Legal Holidays. In any case where any Interest Payment Date, Redemption Date, Change of Control Payment Date or Stated Maturity or Maturity of any Note shall not be a Business Day, then (notwithstanding any other provision of this Indenture or of the Notes) payment of principal (or premium, if any) or interest or other required payment need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on the Interest Payment Date, Redemption Date, Change of Control Payment Date or at the Stated Maturity or Maturity; provided, that no interest shall accrue on such payment for the period from and after such Interest Payment Date, Redemption Date, Change of Control Payment Date, Stated Maturity or Maturity, as the case may be.

SECTION 1.14. No Personal Liability of Directors, Managers, Officers, Employees and Stockholders. No past, present or future director, manager, officer, employee, incorporator, member, partner or stockholder of the Issuer or any Guarantor or any of their parent companies or entities (other than the Issuer in respect of the Notes and each Guarantor in respect of its Note Guarantee) shall have any liability for any obligations of the Issuer or the Guarantors under the Notes, the Note Guarantees, this Indenture, the Equal Priority Intercreditor Agreement, any Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement or any Security Document or for any claim based on, in respect of, or by reason of such obligations or their creation. Each Holder by accepting Notes waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. Such waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the SEC that such a waiver is against public policy.

SECTION 1.15. [Reserved].

SECTION 1.16. Counterparts. This Indenture may be executed in any number of counterparts, each of which shall be original, with the same effect as if the signatures (including any electronic signature complying with the New York Electronic Signatures and Records Act (N.Y. State Tech. §§ 301-309)) thereto and hereto were upon the same instrument. Delivery of an executed counterpart of a signature page to this Indenture by telecopier, facsimile or other electronic transmission (i.e., a “pdf” or “tif”) shall be effective as delivery of a manually executed counterpart thereof.

SECTION 1.17. USA PATRIOT Act. The parties hereto acknowledge that in accordance with Section 326 of the USA PATRIOT Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account. The Issuer agrees that it will provide the Trustee with information about the Issuer as the Trustee may reasonably request in order for the Trustee to satisfy the requirements of the USA PATRIOT Act.

SECTION 1.18. Waiver of Jury Trial. EACH OF THE ISSUER, ANY GUARANTOR, THE TRUSTEE AND EACH HOLDER OF A NOTE, BY ITS ACCEPTANCE THEREOF, IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES, THE NOTE GUARANTEES OR ANY OF THE TRANSACTIONS CONTEMPLATED THEREBY OR HEREBY.

SECTION 1.19. Force Majeure. In no event shall the Trustee nor the Notes Collateral Agent be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, epidemics or pandemics, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee or the Notes Collateral Agent, as applicable, shall use reasonable efforts that are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

SECTION 1.20. FATCA. In order to comply with Sections 1471 – 1474 of the Code, any current or future regulations or official interpretations thereof, any intergovernmental agreement between a non-U.S. jurisdiction and the United States with respect to the foregoing, any similar law or regulations adopted pursuant to such an intergovernmental agreement or any agreements entered into pursuant to Section 1471(b)(1) of the Code ("*FATCA*") that a foreign financial institution, issuer, trustee, paying agent, or other party is or has agreed to be subject to related to this Indenture, the Issuer agrees (i) to use commercially reasonably efforts to provide to the Trustee sufficient information about the parties and/or transactions (including any modification to the terms of such transactions) that is reasonably requested by the Trustee so the Trustee can determine whether it has tax related obligations under FATCA, and (ii) that the Trustee shall be entitled to make any withholding or deduction from payments under this Indenture to the extent necessary to comply with FATCA for which the Trustee shall not have any liability. The terms of this paragraph shall survive the satisfaction and discharge of this Indenture.

ARTICLE TWO

NOTE FORMS

SECTION 2.01. Form and Dating. Provisions relating to the Initial Notes are set forth in Annex I attached hereto (the "*Appendix*") which is hereby incorporated in, and expressly made part of, this Indenture. The Initial Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit 1 to the Appendix which is hereby incorporated in, and expressly made a part of, this Indenture. The Notes may have notations, legends or endorsements required by law, stock exchange rule, agreements to which the Issuer is subject, if any, or usage (*provided* that any such notation, legend or endorsement is in a form reasonably acceptable to the Issuer). The terms of the Note set forth in the Appendix are part of the terms of this Indenture.

SECTION 2.02. Execution, Authentication, Delivery and Dating. The Notes shall be executed on behalf of the Issuer by at least one Officer. The signature of any Officer on the Notes may be manual, electronic or facsimile signatures of the present or any future such authorized officer and may be imprinted or otherwise reproduced on the Notes.

Notes bearing the manual, electronic or facsimile signature of an individual who was at any time the proper Officer of the Issuer shall bind the Issuer, notwithstanding that such individual has ceased to hold such office prior to the authentication and delivery of such Notes or did not hold such office at the date of such Notes.

At any time and from time to time after the execution and delivery of this Indenture, the Issuer may deliver Notes executed by the Issuer to the Trustee for authentication, together with an Issuer Order for the authentication and delivery of such Notes, and the Trustee in accordance with such Issuer Order shall authenticate and deliver such Notes.

On the Issue Date, the Issuer shall deliver the Initial Notes in the aggregate principal amount of $500,000,000 executed by the Issuer to the Trustee for authentication, together with an Issuer Order for the authentication and delivery of such Notes, specifying the principal amount and registered Holder of each Note, directing the Trustee to authenticate the Notes and deliver the same to the persons named in such Issuer Order and the Trustee in accordance with such Issuer Order shall authenticate and deliver such Initial Notes. At any time and from time to time after the Issue Date, the Issuer may, in accordance with Section 3.13, deliver Additional Notes executed by the Issuer to the Trustee for authentication, together with an Issuer Order for the authentication and delivery of such Additional Notes, specifying the principal amount of and registered Holder of each Note, directing the Trustee to authenticate the Additional Notes and deliver the same to the Persons named in such Issuer Order and certifying that the issuance of such Additional Notes is in compliance with Section 10.11 of this Indenture and the Trustee in accordance with such Issuer Order shall authenticate and deliver such Additional Notes. In each case, the Trustee shall receive an Officer's Certificate and an Opinion of Counsel of the Issuer as to such matters as it may reasonably require in connection with such authentication of Notes; *provided* that no Opinion of Counsel under Section 1.03 shall be required in connection with the authentication of the Initial Notes. Such Issuer Order shall specify the amount of Notes to be authenticated and the date on which the original issue of Notes is to be authenticated.

Each Note shall be dated the date of its authentication.

No Note shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Note a certificate of authentication substantially in the form provided for herein duly executed by the Trustee by manual, electronic or facsimile signature of an authorized signatory, and such certificate upon any Note shall be conclusive evidence, and the only evidence, that such Note has been duly authenticated and delivered hereunder and is entitled to the benefits of this Indenture.

In case the Issuer or any Guarantor, pursuant to Article Eight of this Indenture, shall be merged, consolidated or amalgamated with or into or wind up into any other Person or shall sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of the properties or assets of the Issuer and its Restricted Subsidiaries, taken as a whole, in case of the Issuer, or all or substantially all of the properties or assets of such Guarantor in case of a Guarantor, to any Person, and the successor Person (other than the Issuer or such Guarantor, as applicable) formed by or surviving any such merger, consolidation or amalgamation or to which such sale, assignment, transfer, lease, conveyance or other disposition shall have been made, shall have executed a supplemental indenture hereto with the Trustee pursuant to Article Eight of this Indenture, any of the Notes authenticated or delivered prior to such merger, consolidation, amalgamation, sale, assignment, transfer, lease, conveyance or other disposition may, from time to time, at the request of the successor Person, be exchanged for other Notes executed in the name of the successor Person with such changes in phraseology and form as may be appropriate, but otherwise in substance of like tenor as the Notes surrendered for such exchange and of like principal amount; and the Trustee, upon Issuer Request of the successor Person, shall authenticate and deliver Notes as specified in such request for the purpose of such exchange. If Notes shall at any time be authenticated and delivered in any new name of a successor Person pursuant to this Section in exchange or substitution for or upon registration of transfer of any Notes, such successor Person, at the option of the Holders but without expense to them, shall provide for the exchange of all Notes at the time Outstanding for Notes authenticated and delivered in such new name.

ARTICLE THREE

THE NOTES

SECTION 3.01. Title and Terms. The aggregate principal amount of Notes which may be authenticated and issued under this Indenture is not limited; *provided* that any Additional Notes issued under this Indenture are issued in accordance with Sections 2.02, 3.13 and 10.11 hereof, as part of the same series as the Initial Notes.

The terms and provisions contained in the Notes shall constitute, and are hereby expressly made, a part of this Indenture, and the Issuer, the Guarantors and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

The Notes shall be known and designated as the "4.500% Senior Secured Notes due 2029" of the Issuer. The Stated Maturity of the principal of Notes shall be April 15, 2029, and the Notes shall bear interest at the rate of 4.500% per annum from the Issue Date, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, payable on October 15, 2021 and semi-annually thereafter in arrears on April 15 and October 15 of each year, until the principal thereof is paid or duly provided for and to the Person in whose name the Note (or any Predecessor Note) is registered at the close of business (if applicable) on the April 1 and October 1 (whether or not a Business Day) immediately preceding such Interest Payment Date (each, a "*Regular Record Date*").

The principal of (and premium, if any) and interest on the Notes shall be payable at the office or agency of the Paying Agent maintained for such purpose as set forth in Section 3.02, or, at the option of the Issuer, payment of interest may be made by check mailed to the Holders at their respective addresses set forth in the Note Register of Holders or by wire transfer; *provided* that all payments of principal, premium, if any, and interest with respect to Notes represented by one or more Global Notes registered in the name of or held by the Depository or its nominee will be made in accordance with the Depository's applicable procedures.

Holders shall have the right to require the Issuer to purchase their Notes, in whole or in part, in the event of a Change of Control pursuant to Section 10.16. The Notes shall be subject to repurchase pursuant to an Asset Sale Offer as provided in Section 10.17.

The Notes shall be redeemable as provided in Article Eleven.

The due and punctual payment of principal of (and premium, if any) and interest on the Notes payable by the Issuer is irrevocably unconditionally guaranteed, to the extent set forth herein, by each of the Guarantors.

SECTION 3.02. Note Registrar, Transfer Agent and Paying Agent. The Issuer shall maintain one or more Paying Agents for the Notes in New York. The Issuer hereby appoints the Trustee as the initial Paying Agent.

The Issuer shall be responsible for making calculations called for under the Notes, including but not limited to determination of redemption price or other amounts payable on the Notes. The Issuer will make the calculations in good faith and, absent manifest error, its calculations will be final and binding on the Holders. The Issuer will provide a schedule of its calculations to the Trustee when requested by the Trustee, and the Trustee is entitled to rely conclusively on the accuracy of the Issuer's calculations without independent verification. The Trustee shall forward the Issuer's calculations to any Holder upon the written request of such Holder.

The Issuer will also maintain a registrar (the "*Note Registrar*") with offices in New York. The Issuer will also maintain a transfer agent (each, a "*Transfer Agent*") in New York. The Issuer hereby appoints the Trustee as the initial Note Registrar and Transfer Agent. The Note Registrar and the Transfer Agent shall keep a register of the Notes and of their transfer and exchange (the register maintained in such office or in any other office or agency designated pursuant to Section 10.02 being herein referred to as the "*Note Register*") and will facilitate transfer of Notes on behalf of the Issuer. The Note Register shall be in written form or any other form capable of being converted into written form within a reasonable time. At all reasonable times, the Note Register shall be open to inspection by the Trustee. The Issuer may change the Paying Agents, the Note Registrars or the Transfer Agents without prior notice to the Holders. The Issuer may have one or more co-registrars and one or more additional Paying Agents. The term "Note Registrar" includes any co-registrars. For the avoidance of doubt, there shall only be one Note Register.

The Issuer shall enter into an appropriate agency agreement with any Note Registrar or Paying Agent not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to such agent. The Issuer shall notify the Trustee in writing of the name and address of any such agent. If the Issuer fails to maintain a Note Registrar or Paying Agent, the Trustee shall act as such and shall be entitled to appropriate compensation therefor pursuant to Section 6.07. The Issuer or any of its Subsidiaries may act as Paying Agent or Note Registrar.

The Issuer acknowledges that neither the Trustee nor any Agent makes any representations as to the interpretation or characterization of the transactions herein undertaken for tax or any other purpose, in any jurisdiction.

SECTION 3.03. Denominations. The Notes shall be issuable only in registered form without coupons and only in denominations of $2,000 and any integral multiples of $1,000 in excess thereof.

SECTION 3.04. Temporary Notes. Pending the preparation of definitive Notes, the Issuer may execute, and upon Issuer Order the Trustee shall authenticate and deliver, temporary Notes which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor of the definitive Notes in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Notes may determine, as conclusively evidenced by their execution of such Notes.

If temporary Notes are issued, the Issuer will cause definitive Notes to be prepared without unreasonable delay. After the preparation of definitive Notes, the temporary Notes shall be exchangeable for definitive Notes upon surrender of the temporary Notes at the office or agency of the Issuer designated for such purpose pursuant to Section 10.02, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Notes, the Issuer shall execute and the Trustee shall authenticate and deliver in exchange therefor a like principal amount of definitive Notes of authorized denominations. Until so exchanged, the temporary Notes shall in all respects be entitled to the same benefits under this Indenture as definitive Notes.

SECTION 3.05. Registration of Transfer and Exchange.

Upon surrender for registration of transfer of any Note at the office or agency of the Issuer designated pursuant to Section 10.02, the Issuer shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Notes of any authorized denomination or denominations of a like aggregate principal amount.

At the option of the Holder, Notes may be exchanged for other Notes of any authorized denomination and of a like aggregate principal amount, upon surrender of the Notes to be exchanged at such office or agency. Whenever any Notes are so surrendered for exchange, the Issuer shall execute, and the Trustee shall authenticate and deliver, the Notes which the Holder making the exchange is entitled to receive.

All Notes issued upon any registration of transfer or exchange of Notes shall be the valid obligations of the Issuer, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Notes surrendered upon such registration of transfer or exchange.

Every Note presented or surrendered for registration of transfer or for exchange shall (if so required by the Issuer or the Note Registrar) be duly endorsed, or be accompanied by written instruments of transfer, in form satisfactory to the Issuer and the Note Registrar, duly executed by the Holder thereof or his attorney duly authorized in writing.

No service charge shall be made for any registration of transfer or exchange or redemption of Notes, but the Issuer may require payment of a sum sufficient to cover any taxes, fees or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Notes, other than exchanges or transfers pursuant to Sections 2.02, 3.04, 9.06, 10.16, 10.17 or 11.09.

SECTION 3.06. Mutilated, Destroyed, Lost and Stolen Notes. If (1) any mutilated Note is surrendered to the Trustee, or (2) the Issuer and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Note, and there is delivered to the Issuer and the Trustee such security or indemnity to save each of them harmless from any claim, loss, cost or liability resulting from such lost or stolen Note, then, in the absence of written notice to the Issuer or the Trustee that such Note has been acquired by a Protected Purchaser (as defined in Section 8-303 of the Uniform Commercial Code) (a "*Protected Purchaser*"), the Issuer shall execute and upon Issuer Order the Trustee shall authenticate and deliver, in exchange for any such mutilated Note or in lieu of any such destroyed, lost or stolen Note, a new Note of like tenor and principal amount, bearing a number not contemporaneously Outstanding.

In case any such mutilated, destroyed, lost or stolen Note has become or is about to become due and payable, the Issuer in its discretion may, instead of issuing a new Note, pay such Note.

Upon the issuance of any new Note under this Section, the Issuer may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Every new Note issued pursuant to this Section in lieu of any mutilated, destroyed, lost or stolen Note shall constitute an original additional contractual obligation of the Issuer and each Guarantor, whether or not the mutilated, destroyed, lost or stolen Note shall be at any time enforceable by anyone, and shall be entitled to all benefits of this Indenture equally and proportionately with any and all other Notes duly issued hereunder.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes.

SECTION 3.07. Payment of Interest; Interest Rights Preserved.

(a) Interest on any Note which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name such Note (or one or more Predecessor Notes) is registered at the close of business (if applicable) on the Regular Record Date for such interest at the office or agency of the Issuer maintained for such purpose pursuant to Section 10.02; *provided* that, subject to Section 3.01 hereof, each installment of interest may at the Issuer's option be paid by (1) mailing a check for such interest, payable to or upon the written order of the Person entitled thereto pursuant to Section 3.08, to the address of such Person as it appears in the Note Register or (2) transfer to an account maintained by the payee; *provided* that payment by wire transfer of immediately available funds shall be required with respect to principal of, premium on, if any, and interest on, all Notes in global form and all other Notes the Holders of which shall have provided wire transfer instructions to the Issuer and the Paying Agent; *provided* that for Notes not in global form the Paying Agent shall have received from the Holders satisfactory wire transfer instructions at least 10 calendar days prior to the related payment date and subject to surrender of the Note in the case of payments of principal and premium, if any.

(b) Any interest on any Note which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date shall forthwith cease to be payable to the Holder on the Regular Record Date by virtue of having been such Holder, and such defaulted interest and (to the extent lawful) interest on such defaulted interest at the rate borne by the Notes (such defaulted interest and interest thereon herein collectively called "*Defaulted Interest*") may be paid by the Issuer, at its election in each case, as provided in clause (1) or (2) below:

(1) the Issuer may elect to make payment of any Defaulted Interest to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Issuer shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Note and the date of the proposed payment, and at the same time the Issuer shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this clause provided. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Issuer of such Special Record Date, and in the name and at the expense of the Issuer, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be given in the manner provided for in Section 1.07, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been so given, such Defaulted Interest shall be paid to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following clause (2).

(2) the Issuer may make payment of any Defaulted Interest in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Notes may be listed, and upon such notice as may be required by such exchange, if, after written notice given by the Issuer to the Trustee of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustee.

(c) Subject to the foregoing provisions of this Section, each Note delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Note shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Note.

SECTION 3.08. Persons Deemed Owners. Prior to the due presentment of a Note for registration of transfer, the Issuer, any Guarantor, the Trustee and any agent of the Issuer, any Guarantor or the Trustee may treat the Person in whose name such Note is registered as the owner of such Note for the purpose of receiving payment of principal of (and premium, if any) and (subject to Sections 3.05 and 3.07) interest on such Note and for all other purposes whatsoever, whether or not such Note be overdue, and none of the Issuer, any Guarantor, the Trustee or any agent of the Issuer, any Guarantor or the Trustee shall be affected by notice to the contrary.

SECTION 3.09. Cancellation. All Notes surrendered for payment, redemption, registration of transfer or exchange shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee and shall be cancelled by the Trustee in accordance with its customary procedures. The Issuer may at any time deliver to the Trustee for cancellation any Notes previously authenticated and delivered hereunder which the Issuer may have acquired in any manner whatsoever, and may deliver to the Trustee (or to any other Person for delivery to the Trustee) for cancellation any Notes previously authenticated hereunder which the Issuer has not issued and sold, and all Notes so delivered shall be cancelled by the Trustee in accordance with its customary procedures. If the Issuer shall so acquire any of the Notes, however, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Notes unless and until the same are surrendered to the Trustee for cancellation. No Notes shall be authenticated in lieu of or in exchange for any Notes cancelled as provided in this Section, except as expressly permitted by this Indenture. All cancelled Notes held by the Trustee shall be disposed of by the Trustee upon receipt of an Issuer Order and in accordance with its customary procedures.

SECTION 3.10. Computation of Interest. Interest on the Notes shall be computed on the basis of a 360-day year comprised of twelve 30-day months.

SECTION 3.11. Transfer and Exchange. The Notes shall be issued in registered form and shall be transferable only upon the surrender of a Note for registration of transfer. When a Note is presented to the Note Registrar or a co-registrar with a request to register a transfer, the Note Registrar shall register the transfer as requested if the requirements of this Indenture are met. When Notes are presented to the Note Registrar or a co-registrar with a request to exchange them for an equal principal amount of Notes of other denominations, the Note Registrar shall make the exchange as requested if the same requirements are met.

SECTION 3.12. CUSIP, ISIN and Common Code Numbers. The Issuer in issuing the Notes may use CUSIP, ISINs and "Common Code" numbers (in each case, if then generally in use) in addition to serial numbers, and, if so, the Trustee may use such CUSIP, ISINs and "Common Code" numbers in addition to serial numbers in notices of redemption, repurchase or other notices to Holders as a convenience to Holders; *provided* that any such notice may state that no representation is made as to the correctness of such CUSIP, ISINs and "Common Code" numbers either as printed on the Notes or as contained in any notice of a redemption or repurchase and that reliance may be placed only on the serial or other identification numbers printed on the Notes, and any such redemption or repurchase shall not be affected by any defect in or omission of such numbers. The Issuer will promptly notify the Trustee in writing of any change in the CUSIP, ISINs and "Common Code" numbers applicable to the Notes.

SECTION 3.13. Issuance of Additional Notes. The Issuer may, subject to Section 2.02 and 10.11 and Section 10.12 of this Indenture, issue additional Notes having identical terms and conditions to the Initial Notes issued on the Issue Date (the "*Additional Notes*"), except, if applicable, the initial Interest Payment Date and the initial interest accrual date. The Initial Notes issued on the Issue Date and any Additional Notes subsequently issued shall be treated as a single class for all purposes under this Indenture; *provided*, that a separate CUSIP or ISIN will be issued for the Additional Notes, unless the Initial Notes and the Additional Notes are treated as fungible for U.S. federal income tax purposes.

ARTICLE FOUR

SATISFACTION AND DISCHARGE

SECTION 4.01. Satisfaction and Discharge of Indenture. This Indenture shall be discharged and shall cease to be of further effect as to all Notes, Liens on the Collateral securing the Notes will be released in accordance with Section 14.02, and the Trustee, at the request and expense of the Issuer, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture, when:

(1) either:

(A) all Notes theretofore authenticated and delivered (except (i) Notes which have been mutilated, destroyed, lost or stolen and which have been replaced or paid as provided in Section 3.06 and (ii) Notes for whose payment money has theretofore been deposited in trust with the Trustee or any Paying Agent or segregated and held in trust by the Issuer and thereafter repaid to the Issuer or discharged from such trust, as provided in Section 10.03) have been delivered to the Trustee for cancellation; or

(B)

(i) all Notes not theretofore delivered to the Trustee for cancellation (x) have become due and payable by reason of the making of a notice of redemption or otherwise; (y) will become due and payable within one year or (z) are to be called for redemption within one year under arrangements reasonably satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Issuer;

(ii) the Issuer or any Guarantor has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders of the Notes, cash in U.S. dollars, U.S. Government Obligations, or a combination thereof, in an amount (including scheduled payments thereon) sufficient to pay and discharge the entire Indebtedness on such Notes not theretofore delivered to the Trustee for cancellation (without further investment or reinvestment thereon), for principal, premium, if any, and accrued interest to the date of such deposit (in the case of Notes which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be; *provided*, that upon any redemption that requires the payment of the Applicable Premium, the amount deposited shall be sufficient for purposes of this Indenture to the extent that an amount is deposited with the Trustee equal to the Applicable Premium calculated as of the date of the notice of redemption, with any deficit as of the date of redemption (any such amount, the "*Applicable Premium Deficit*") only required to be deposited with the Trustee on or prior to the date of redemption. Any Applicable Premium Deficit shall be set forth in an Officer's Certificate delivered to the Trustee simultaneously with the deposit of such Applicable Premium Deficit that confirms that such Applicable Premium Deficit shall be applied toward such redemption;

(iii) no Default or Event of Default (other than that resulting from borrowing funds to be applied to make such deposit or any similar and simultaneous deposit relating to other Indebtedness and, in each case, the granting of Liens in connection therewith) with respect to this Indenture or the Notes shall have occurred and be continuing on the date of such deposit or shall occur as a result of such deposit and such deposit shall not result in a breach or violation of, or constitute a default under any material agreement or material instrument (other than this Indenture) to which the Issuer or any Guarantor is a party or by which the Issuer or any Guarantor is bound (other than that resulting from borrowing funds to be applied to make such deposit and any similar and simultaneous deposit relating to other Indebtedness and, in each case, the granting of Liens in connection therewith); and

(iv) the Issuer has delivered irrevocable instructions to the Trustee to apply the deposited money toward the payment of the Notes at maturity or the Redemption Date, as the case may be;

(2) the Issuer has paid or caused to be paid all other sums payable by it under this Indenture; and

(3) the Issuer has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel (which Opinion of Counsel may be subject to customary assumptions and exclusions), each stating that all conditions precedent herein to the satisfaction and discharge of this Indenture have been satisfied. Such Opinion of Counsel may rely on such Officer's Certificate as to matters of fact, including clauses (B)(i), (ii), (iii) and (iv).

Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Issuer to the Trustee under Section 6.07, the obligations of the Issuer to any Authenticating Agent under Section 6.12 and, if money or U.S. Government Obligations shall have been deposited with the Trustee pursuant to clause (1)(B) of this Section 4.01, the obligations of the Trustee under Section 4.02 and the last paragraph of Section 10.03 shall survive such satisfaction and discharge.

SECTION 4.02. Application of Trust Money. Subject to the provisions of the last paragraph of Section 10.03, all money or U.S. Government Obligations (including the proceeds thereof) deposited with the Trustee pursuant to Section 4.01 shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Issuer acting as its own Paying Agent) of the principal (and premium, if any) and interest for whose payment such money or U.S. Government Obligations has been deposited with the Trustee; but such money or U.S. Government Obligations need not be segregated from other funds except to the extent required by law.

The Issuer shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the U.S. Government Obligations deposited pursuant to this Section 4.02 or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the Outstanding Notes. The Trustee shall also deliver or pay to the Issuer from time to time upon Issuer Request any money or U.S. Government Obligations held by it which, in the opinion of an Independent Financial Advisor expressed in a written certification thereof delivered to the Trustee, are in excess of the amount thereof which would then be required to be deposited to effect an equivalent Satisfaction and Discharge, as applicable, in accordance with Article Four.

If the Trustee or Paying Agent is unable to apply any money or U.S. Government Obligations in accordance with Section 4.01 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Issuer's and any Guarantor's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 4.01 until such time as the Trustee or Paying Agent is permitted to apply all such money or U.S. Government Obligations in accordance with Section 4.01; *provided* that if the Issuer has made any payment of principal of (and premium, if any) or interest on any Notes because of the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or U.S. Government Obligations held by the Trustee or Paying Agent.

ARTICLE FIVE

REMEDIES

SECTION 5.01. Events of Default. "*Event of Default*", wherever used herein, means any one of the following events:

(1) default in payment when due and payable, upon redemption, acceleration or otherwise, of principal of, or premium, if any, on the Notes;

(2) default for 30 days or more in the payment when due of interest on or with respect to the Notes;

(3) failure by the Issuer or any Restricted Subsidiary for 60 days after receipt of written notice given by the Trustee or the Holders of not less than 30% in principal amount of the Outstanding Notes (with a copy to the Trustee) to comply with any of its obligations, covenants or agreements (other than a default referred to in clauses (1) or (2) above) contained in this Indenture or the Notes; *provided* that in the case of a failure to comply with Section 10.09, such period of continuance of such default or breach shall be 120 days after written notice described in this clause (3) has been given;

(4) default under any mortgage, indenture or instrument under which there is issued or by which there is secured or evidenced any Indebtedness for money borrowed by the Issuer or any of its Restricted Subsidiaries or the payment of which is guaranteed by the Issuer or any of its Restricted Subsidiaries (other than Indebtedness owed to the Issuer or a Restricted Subsidiary), whether such Indebtedness or guarantee now exists or is created after the issuance of the Notes, if both:

(A) such default either results from the failure to pay any principal of such Indebtedness at its stated final maturity (after giving effect to any applicable grace periods) or relates to an obligation other than the obligation to pay principal of any such Indebtedness at its stated final maturity and results in the holder or holders of such Indebtedness causing such Indebtedness to become due prior to its stated final maturity; and

(B) the principal amount of such Indebtedness, together with the principal amount of any other such Indebtedness in default for failure to pay principal at stated final maturity (after giving effect to any applicable grace periods), or the maturity of which has been so accelerated, is in the aggregate, equal to $100.0 million (or its foreign currency equivalent) or more at any one time outstanding;

(5) failure by the Issuer or any Restricted Subsidiary that is a Significant Subsidiary (or group of Restricted Subsidiaries that together (as determined as of the most recent consolidated financial statements of the Issuer for a fiscal quarter end) would constitute a Significant Subsidiary) to pay final judgments aggregating in excess of $100.0 million (to the extent not covered by insurance as to which the insurer has been notified of such judgment or order and has not denied its obligation), which final judgments remain unpaid, undischarged and unstayed for a period of more than 60 days after such judgment becomes final, and in the event such judgment is covered by insurance, an enforcement proceeding has been commenced by any creditor upon such judgment or decree which is not promptly stayed;

(6) any of the following events with respect to the Issuer or any Restricted Subsidiary that is a Significant Subsidiary (or group of Restricted Subsidiaries that together (as determined as of the most recent consolidated financial statements of the Issuer for a fiscal quarter end) would constitute a Significant Subsidiary):

(A) the Issuer or such Restricted Subsidiary (or such group of Restricted Subsidiaries) pursuant to or within the meaning of any Bankruptcy Law:

(i) commences proceedings to be adjudicated bankrupt or insolvent;

(ii) consents to the entry of an order for relief against it in an involuntary case;

(iii) consents to the appointment of a custodian of it or for all or substantially all of its property;

(iv) takes any comparable action under any foreign laws relating to insolvency; or

(B) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(i) is for relief against the Issuer or such Restricted Subsidiary (or such group of Restricted Subsidiaries) in an involuntary case;

(ii) appoints a custodian of the Issuer or such Restricted Subsidiary (or such group of Restricted Subsidiaries) or for all or substantially all of its property; or

(iii) orders the winding up or liquidation of the Issuer or such Restricted Subsidiary (or such group of Restricted Subsidiaries); and

(iv) the order or decree remains unstayed and in effect for 60 days;

(7) any Note Guarantee of any Guarantor that is a Significant Subsidiary (or group of Guarantors that together (as determined as of the most recent consolidated financial statements of the Issuer for a fiscal quarter end) would constitute a Significant Subsidiary) ceases to be in full force and effect (other than in accordance with the terms of such Note Guarantee) or any such Guarantor or such group of Guarantors denies or disaffirms its obligations under its Note Guarantee (other than by reason of the satisfaction in full of all obligations under this Indenture and discharge of this Indenture or the release of such Note Guarantee in accordance with the terms of this Indenture);

(8) (i) the Liens created by the Security Documents shall at any time not constitute a valid and perfected Lien on an aggregate amount of the Collateral equal to $35.0 million or more intended to be covered thereby (unless perfection is not required by this Indenture or the Security Documents) other than (A) in accordance with the terms of the relevant Security Document and this Indenture, (B) the satisfaction in full of all Obligations under this Indenture or (C) any loss of perfection that results from the failure of the Controlling Collateral Agent or Notes Collateral Agent to maintain possession of certificates delivered to it representing securities pledged under the Security Documents or to file Uniform Commercial Code continuation statements and (ii) such default continues for 30 days after receipt of written notice given by the Trustee or the Holders of not less than 30% in aggregate principal amount of Outstanding Notes; or

(9) the Issuer or any Guarantor that is a Significant Subsidiary (or any group of Guarantors that together (as of the latest consolidated financial statements of the Issuer for a fiscal quarter end) provided as required under Section 10.09 would constitute a Significant Subsidiary) shall assert, in any pleading in any court of competent jurisdiction, that any security interest in any material Security Document is invalid or unenforceable (other than by reason of the satisfaction in full of all obligations under this Indenture and discharge of this Indenture, the release of the Note Guarantee of such Guarantor in accordance with the terms of this Indenture or the release of such security interest in accordance with the terms of this Indenture and the Security Documents).

SECTION 5.02. Acceleration of Maturity: Rescission and Annulment.

(a) If any Event of Default (other than an Event of Default specified in Section 5.01(6) above with respect to the Issuer) occurs and is continuing, the Trustee or the Holders of at least 30% in aggregate principal amount of the Outstanding Notes issued under this Indenture may declare the principal, premium, if any, interest and any other monetary obligations on all the Outstanding Notes to be due and payable immediately, by a notice in writing to the Issuer (and to the Trustee if given by Holders).

(b) Upon the effectiveness of a declaration under Section 5.02(a), such principal and interest will be due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default arising under Section 5.01(6) with respect to the Issuer, the principal of and interest on all Outstanding Notes will become immediately due and payable without further action or notice. In addition, the Trustee shall have no obligation to accelerate the Notes if, in the reasonable judgment of the Trustee, acceleration is not in the best interest of the Holders.

(c) The Holders of a majority in aggregate principal amount of the Outstanding Notes, by written notice to the Issuer and the Trustee, may rescind and annul any declaration of acceleration and its consequences, so long as such rescission and annulment would not conflict with any judgment of a court of competent jurisdiction, if all existing Events of Default, other than the non-payment of amounts of principal of (or premium, if any, on) or interest on Notes, which have become due solely by such declaration of acceleration, have been cured or waived as provided in Section 5.13, provided that no such rescission shall affect any subsequent default or impair any right consequent thereon.

(d) Notwithstanding the preceding paragraph, in the event of any Event of Default specified in Section 5.01(4), such Event of Default and all consequences thereof (excluding any resulting payment default, other than as a result of acceleration of the Notes) shall be annulled, waived and rescinded, automatically and without any action by the Trustee or the Holders, if within 20 days after such Event of Default arose:

(1) the Indebtedness or guarantee that is the basis for such Event of Default has been discharged; or

(2) the requisite holders thereof have rescinded or waived the acceleration, notice or action (as the case may be) giving rise to such Event of Default; or

(3) the default that is the basis for such Event of Default has been cured.

SECTION 5.03. Collection of Indebtedness and Suits for Enforcement by Trustee. If an Event of Default specified in Section 5.01(1) or (2) occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Issuer and Guarantors for the whole amount then due and payable on such Notes for principal (and premium, if any) and interest, and interest on any overdue principal (and premium, if any) and, to the extent that payment of such interest shall be legally enforceable, upon any overdue installment of interest, at the rate borne by the Notes, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

If the Issuer fails to pay such amounts forthwith upon such demand, the Trustee, in its own name as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree and may enforce the same against the Issuer, any Guarantor or any other obligor upon the Notes and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Issuer, any Guarantor or any other obligor upon the Notes, wherever situated.

If an Event of Default occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders under this Indenture and the Note Guarantees by such appropriate judicial proceedings as the Trustee shall deem necessary to protect and enforce any such rights, including seeking recourse against any Guarantor, whether for the specific enforcement of any covenant or agreement in this Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy, including seeking recourse against any Guarantor.

SECTION 5.04. Trustee May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Issuer or any other obligor including any Guarantor, upon the Notes or the property of the Issuer or of such other obligor or their creditors, the Trustee (irrespective of whether the principal of the Notes shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Issuer for the payment of overdue principal, premium, if any, or interest) shall be entitled and empowered, by intervention in such proceeding or otherwise,

(1) to file and prove a claim for the whole amount of principal (and premium, if any) and interest owing and unpaid in respect of the Notes and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and of the Holders allowed in such judicial proceeding, and

(2) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or similar official in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 6.07.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding. The Trustee may, on behalf of the Holders, vote for the election of a trustee in bankruptcy or similar official and be a member of a creditors' committee or other similar committee.

SECTION 5.05. Trustee May Enforce Claims Without Possession of Notes. All rights of action and claims under this Indenture or the Notes may be prosecuted and enforced by the Trustee without the possession of any of the Notes or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name and as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders in respect of which such judgment has been recovered.

SECTION 5.06. Application of Money Collected. Any money or property collected by the Trustee pursuant to this Article shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal (or premium, if any) or interest, upon presentation of the Notes and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

FIRST: To the payment of all amounts due the Trustee, the Notes Collateral Agent, and their agents and attorneys (including any predecessor Trustee or Notes Collateral Agent) under Section 6.07;

SECOND: To the payment of the amounts then due and unpaid for principal of (and premium, if any) and interest on the Notes in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such Notes for principal (and premium, if any) and interest, respectively; and

THIRD: The balance, if any, to the Issuer or as a court of competent jurisdiction may direct in writing; *provided* that all sums due and owing to the Holders and the Trustee have been paid in full as required by this Indenture.

The Trustee may fix a record date and payment date for any payment to Holders of Notes pursuant to this Section 5.06.

SECTION 5.07. Limitation on Suits. Subject to the Equal Priority Intercreditor Agreement and except to enforce the right to receive payment of principal, premium, if any, or interest when due or after when due, no Holder shall pursue any remedy with respect to this Indenture or the Notes, unless:

(1) such Holder has previously given the Trustee written notice that an Event of Default is continuing;

(2) Holders of at least 30% in aggregate principal amount of the total Outstanding Notes have requested the Trustee in writing to pursue the remedy;

(3) Holders have offered and, if requested, provided to the Trustee indemnity or security reasonably satisfactory to the Trustee against any loss, liability or expense;

(4) the Trustee has not complied with such request within 60 days after the receipt thereof and the offer of security or indemnity; and

(5) Holders of a majority in aggregate principal amount of the total Outstanding Notes have not given the Trustee a direction inconsistent with such request within such 60-day period,

it being understood and intended that no one or more Holders shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other Holders, or to obtain or to seek to obtain priority or preference over any other Holders or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all the Holders (it being further understood that the Trustee does not have an affirmative duty to ascertain whether or not such actions or forbearances are unduly prejudicial to such Holders).

SECTION 5.08. Right of Holders to Bring Suit for Payment. Notwithstanding any other provision of this Indenture, the contractual right of any Holder of any Outstanding Note to bring suit for the enforcement of any payment of principal of, premium, if any, and interest on such Note, on or after the respective due date expressed in such Note (including in connection with an Asset Sale Offer or a Change of Control Offer), shall not be amended without the consent of such Holder.

SECTION 5.09. Restoration of Rights and Remedies. If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture or the Note Guarantees and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Issuer, any Guarantor, any other obligor of the Notes, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

SECTION 5.10. Rights and Remedies Cumulative. Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes in Section 3.06, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

SECTION 5.11. Delay or Omission Not Waiver. No delay or omission of the Trustee or of any Holder of any Note to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

SECTION 5.12. Control by Holders. Subject to the Equal Priority Intercreditor Agreement, the Holders of a majority in aggregate principal amount of the Outstanding Notes shall have the right to direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee, or of exercising any trust or power conferred on the Trustee. The Trustee, however, may refuse to follow any direction that conflicts with law or this Indenture or that the Trustee determines is unduly prejudicial to the rights of any other Holder or would involve the Trustee in personal liability. The Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.

SECTION 5.13. Waiver of Past Defaults. Holders of a majority in aggregate principal amount of Outstanding Notes by notice to the Trustee may on behalf of the Holders of all the Notes waive any existing Default or Event of Default and its consequences under this Indenture (except (1) a continuing Default or Event of Default in the payment of interest on, premium, if any, or the principal of any such Note held by a non-consenting Holder, or (2) in respect of a covenant or provision hereof or in any Note Guarantee which under Article Nine cannot be modified or amended without the consent of the Holder of each Outstanding Note affected which shall require the consent of all Holders of the Notes) and rescind any acceleration and its consequences with respect to the Notes pursuant to Section 5.02(c); *provided* such rescission would not conflict with any judgment of a court of competent jurisdiction.

Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture, but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon.

SECTION 5.14. Waiver of Stay or Extension Laws. Each of the Issuer, the Guarantors and any other obligor on the Notes covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture; and each of the Issuer, the Guarantors and any other obligor on the Notes (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

SECTION 5.15. Undertaking for Costs.

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorney's fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 5.15 does not apply to a suit by the Trustee, a suit by a Holder relating to right to payment hereof, or a suit by Holders of more than 10% in principal amount of Outstanding Notes.

ARTICLE SIX

THE TRUSTEE

SECTION 6.01. Duties of the Trustee.

(a) Except during the continuance of an Event of Default,

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of gross negligence or willful misconduct on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions specifically required by any provision hereof to be provided to it, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture, but not to verify the contents thereof including the accuracy of any mathematical calculations.

(b) If an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the degree of care of a prudent Person under the circumstances in the conduct of such Person's own affairs.

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

(1) this paragraph (c) shall not be construed to limit the effect of paragraph (a) of this Section;

(2) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved in a court of competent jurisdiction that the Trustee was negligent in ascertaining the pertinent facts;

(3) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of a majority in aggregate principal amount of the Outstanding Notes relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture; and

(4) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers vested in it by this Indenture, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(d) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

SECTION 6.02. Notice of Defaults. Within 90 days after the receipt by a Responsible Officer of the Trustee of written notice of any Default or Event of Default hereunder, the Trustee shall transmit to the Holders notice of such Default or Event of Default hereunder, unless such Default or Event of Default shall have been cured or waived; *provided* that, except in the case of a Default or Event of Default in the payment of the principal of (or premium, if any, on) or interest on any Note, the Trustee shall be protected in withholding such notice if and so long as Responsible Officers of the Trustee in good faith determines that the withholding of such notice is in the best interest of the Holders.

SECTION 6.03. Certain Rights of Trustee.

(1) The Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document (whether in original or facsimile form) believed by it to be genuine and to have been signed or presented by the proper party or parties.

(2) Any request or direction of the Issuer mentioned herein shall be sufficiently evidenced by an Issuer Request or Issuer Order and any resolution of the Board may be sufficiently evidenced by a Board Resolution certified by the Secretary or an Assistant Secretary of the Issuer to have been duly adopted by the Board of the Issuer and to be in full force and effect on the date of such certification, and delivered to the Trustee.

(3) Whenever in the administration of this Indenture the Trustee or the Notes Collateral Agent shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee or the Notes Collateral Agent (unless other evidence be herein specifically prescribed) may, as applicable, reasonably request and in the absence of bad faith on its part, conclusively rely upon an Officer's Certificate or Opinion of Counsel.

(4) The Trustee shall not be charged with knowledge of any fact, Default or Event of Default with respect to the Notes unless written notice of such fact, Default or Event of Default shall have been received by a Responsible Officer of the Trustee from the Issuer, any other obligor of the Notes or from Holders of at least 30% of the aggregate principal amount of the Notes and references this Indenture and the Notes.

(5) Delivery of any reports to the Trustee pursuant to Section 10.09 is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Issuer's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officer's Certificates).

(6) The Trustee may consult with counsel of its own selection and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in accordance with the advice or opinion of such counsel or Opinion of Counsel.

(7) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders pursuant to this Indenture, unless such Holders shall have offered to the Trustee security and indemnity reasonably satisfactory to it against any loss, liability or expense.

(8) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, or inquire as to the performance by the Issuer or the Guarantors of any of their covenants in this Indenture or inquire as to the performance by the Issuer or the Guarantors of any of their covenants in this Indenture, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Issuer, personally or by agent or attorney at the expense of the Issuer and shall incur no liability of any kind by reason of such inquiry or investigation.

(9) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.

(10) The Trustee shall not be liable for any action taken, suffered or omitted by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture.

(11) The rights, privileges, protections, immunities and benefits given to the Trustee, including its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder whether as the Agent or otherwise, and each agent, custodian and other Person employed to act hereunder, including the Notes Collateral Agent.

(12) The Trustee may request that the Issuer deliver an Incumbency Certificate substantially in the form of Exhibit B hereto setting forth the names of individuals or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which Incumbency Certificate may be signed by any person authorized to sign an Officer's Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded.

(13) The Trustee shall not be required to give any note, bond or surety in respect of the execution of the trusts and powers under this Indenture.

(14) [Reserved]

(15) In no event shall the Trustee be responsible or liable for special, indirect, incidental, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(16) The permissive right of the Trustee to take actions permitted by this Indenture shall not be construed as an obligation or duty to do so.

(17) The Trustee shall have no duty to monitor, inquire as to or ascertain compliance with the Issuer's covenants set forth herein, other than with respect to payments described in Section 10.01. In ascertaining such compliance the Trustee will be entitled to conclusively rely upon the Officer's Certificate delivered by the Issuer pursuant to Section 10.08.

SECTION 6.04. Trustee Not Responsible for Recitals or Issuance of Notes. The recitals contained herein and in the Notes, except for the Trustee's certificates of authentication, shall be taken as the statements of the Issuer, and neither the Trustee nor any Agent assumes responsibility for their correctness. Neither the Trustee nor any Agent makes representations as to the validity or sufficiency of this Indenture, the Intercreditor Agreements, the Security Documents or of the Notes, except that the Trustee represents that it is duly authorized to execute and deliver this Indenture, authenticate the Notes and perform its obligations hereunder. Neither the Trustee nor any Agent shall be accountable for the use or application by the Issuer of Notes or the proceeds thereof or the Offering Memorandum or any other documents used in connection with the sale or distribution of the Notes.

SECTION 6.05. May Hold Notes. The Trustee, any Paying Agent, any Note Registrar or any other agent of the Issuer or of the Trustee, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with the Issuer with the same rights it would have if it were not the Trustee, Paying Agent, Note Registrar or such other agent; *provided*, that, if it acquires any conflicting interest (as such term is defined in the Trust Indenture Act), it must eliminate such conflict within 90 days or resign as Trustee.

SECTION 6.06. Money Held in Trust. Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed in writing with the Issuer.

SECTION 6.07. Compensation and Reimbursement. The Issuer and the Guarantors, jointly and severally, agree:

(1) to pay to the Trustee from time to time such compensation as shall be agreed in writing between the Issuer and the Trustee for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(2) except as otherwise expressly provided herein, to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as shall be determined by a court of competent jurisdiction in a final, non-appealable order to have been caused by its own negligence or willful misconduct; and

(3) to indemnify the Trustee and any predecessor Trustee for, and to hold it harmless against, any and all loss, liability, claim, damage or expense, including taxes (other than the taxes based on the income of the Trustee) incurred without negligence or willful misconduct on its part, arising out of or in connection with the acceptance or administration of this trust, including the reasonable costs and expenses of defending itself against any claim regardless of whether the claim is asserted by the Issuer, a Guarantor, a Holder or any other Person or liability in connection with the exercise or performance of any of its powers or duties hereunder, including the reasonable costs and expenses of enforcing this Indenture or a Note Guarantee against the Issuer or a Guarantor (including this Section 6.07).

The obligations of the Issuer and the Guarantors under this Section to compensate the Trustee, to pay or reimburse the Trustee for expenses, disbursements and advances and to indemnify and hold harmless the Trustee shall constitute additional indebtedness hereunder and shall survive the satisfaction and discharge of this Indenture and resignation or removal of the Trustee. As security for the performance of such obligations of the Issuer, the Trustee shall have a Lien prior to the Notes upon all property and funds held or collected by the Trustee as such, except funds held in trust solely for the benefit of the Holders entitled thereto for the payment of principal of (and premium, if any) or interest on particular Notes.

Without prejudice to any other rights available to the Trustee under applicable law, when the Trustee incurs expenses or renders services in connection with an Event of Default specified in Section 5.01(6), the expenses (including the reasonable charges and expenses of its counsel) of and the compensation for such services are intended to constitute expenses of administration under any applicable Bankruptcy Law. "Trustee" for the purposes of this Section 6.07 shall include any predecessor Trustee and the Trustee in each of its capacities hereunder and each agent, custodian and other person employed to act hereunder as permitted by this Indenture; *provided*, *however*, that the negligence or willful misconduct of any predecessor Trustee hereunder shall not affect the rights of any other successor Trustee hereunder (other than a successor Trustee that is successor by merger or consolidation to such predecessor Trustee).

The provisions of this Section shall survive the satisfaction and discharge of this Indenture and resignation or removal of the Trustee.

SECTION 6.08. Corporate Trustee Required; Eligibility. There shall be at all times a Trustee hereunder which shall be eligible to act as Trustee under TIA Section 310(a)(1) and shall have a combined capital and surplus of at least $50,000,000. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of federal, State, territorial or District of Columbia supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article.

SECTION 6.09. Resignation and Removal; Appointment of Successor.

(a) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee in accordance with the applicable requirements of Section 6.10.

(b) The Trustee may resign at any time by giving 30 days' prior written notice thereof to the Issuer. Upon receiving such notice of resignation, the Issuer shall promptly appoint a successor trustee by written instrument, a copy of which shall be delivered to the resigning Trustee and a copy to the successor Trustee. If the instrument of acceptance by a successor Trustee required by Section 6.10 shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may petition, at the expense of the Issuer, any court of competent jurisdiction for the appointment of a successor Trustee.

(c) The Trustee may be removed at any time by Act of the Holders of not less than a majority in principal amount of the Outstanding Notes, delivered to the Trustee and to the Issuer 30 days prior to the removal's effectiveness. If the instrument of acceptance by a successor Trustee required by Section 6.10 shall not have been delivered to the Trustee within 30 days after the giving of such notice of removal, the Trustee being removed may petition, at the expense of the Issuer, any court of competent jurisdiction for the appointment of a successor Trustee.

(d) If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, the Issuer shall promptly appoint a successor Trustee. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee shall be appointed by Act of the Holders of a majority in principal amount of the Outstanding Notes delivered to the Issuer and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee and

supersede the successor Trustee appointed by the Issuer. If no successor Trustee shall have been so appointed by the Issuer or the Holders and accepted appointment in the manner hereinafter provided, the Trustee or any Holder who has been a bona fide Holder of a Note for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee.

(e) the Issuer shall give notice of each resignation and each removal of the Trustee and each appointment of a successor Trustee to the Holders in the manner provided for in Section 1.07. Each notice shall include the name of the successor Trustee and the address of its Corporate Trust Office.

SECTION 6.10. Acceptance of Appointment by Successor.

(a) Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Issuer and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on request of the Issuer or the successor Trustee, such retiring Trustee shall, upon payment of its charges and subject to its lien, if any, provided for in Section 6.07, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder. Upon request of any such successor Trustee, the Issuer shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts.

(b) No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be eligible under this Article.

SECTION 6.11. Merger, Conversion, Consolidation or Succession to Business. Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder; *provided* such corporation shall be otherwise eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Notes shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Notes so authenticated with the same effect as if such successor Trustee had itself authenticated such Notes. In case at that time any of the Notes shall not have been authenticated, any successor Trustee may authenticate such Notes either in the name of any predecessor hereunder or in the name of the successor Trustee. In all such cases such certificates shall have the full force and effect which this Indenture provides for the certificate of authentication of the Trustee shall have; *provided* that, the right to adopt the certificate of authentication of any predecessor Trustee or to authenticate Notes in the name of any predecessor Trustee shall apply only to its successor or successors by merger, conversion or consolidation.

SECTION 6.12. Appointment of Authenticating Agent. At any time when any of the Notes remain Outstanding, the Trustee may appoint one or more agents (each an "*Authenticating Agent*") with respect to the Notes which shall be authorized to act on behalf of the Trustee to authenticate Notes and the Trustee shall give written notice of such appointment to all Holders of Notes with respect to which such Authenticating Agent will serve, in the manner provided for in Section 1.07. Notes so authenticated shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder. Any such appointment shall be evidenced by an

instrument in writing signed by an authorized signatory of the Trustee, and a copy of such instrument shall be promptly furnished to the Issuer. Wherever reference is made in this Indenture to the authentication and delivery of Notes by the Trustee or the Trustee's certificate of authentication, such reference shall be deemed to include authentication and delivery on behalf of the Trustee by an Authenticating Agent and a certificate of authentication executed on behalf of the Trustee by an Authenticating Agent. Each Authenticating Agent shall be acceptable to the Issuer.

Any corporation into which an Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which such Authenticating Agent shall be a party, or any corporation succeeding to all or substantially all the corporate agency or corporate trust business of an Authenticating Agent, shall continue to be an Authenticating Agent; *provided* such corporation shall be otherwise eligible under this Section, without the execution or filing of any paper or any further act on the part of the Trustee or the Authenticating Agent.

An Authenticating Agent may resign at any time by giving written notice thereof to the Trustee and to the Issuer. The Trustee may at any time terminate the agency of an Authenticating Agent by giving written notice thereof to such Authenticating Agent and to the Issuer. Upon receiving such a notice of resignation or upon such a termination, or in case at any time such Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, the Trustee may appoint a successor Authenticating Agent which shall be acceptable to the Issuer and shall give written notice of such appointment to all Holders of Notes, in the manner provided for in Section 1.07. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent. No successor Authenticating Agent shall be appointed unless eligible under the provisions of this Section.

The Issuer agrees to pay to each Authenticating Agent from time to time such compensation for its services under this Section as shall be agreed in writing between the Issuer and such Authenticating Agent.

If an appointment is made pursuant to this Section, the Notes may have endorsed thereon, in addition to the Trustee's certificate of authentication, an alternate certificate of authentication in the following form:

This is one of the Notes referred to in the within-mentioned Indenture.

THE BANK OF NEW YORK MELLON
as Trustee

Date: _____

By: _____
as Authenticating Agent

By: _____
Authorized Signatory

ARTICLE SEVEN

HOLDERS LISTS AND REPORTS BY TRUSTEE AND ISSUER

SECTION 7.01. Issuer to Furnish Trustee Names and Addresses. The Issuer will furnish or cause to be furnished to the Trustee:

(1) semiannually, not more than 10 days after each Regular Record Date, a list, in such form as the Trustee may reasonably require, of the names and addresses of the Holders as of such Regular Record Date; and

(2) at such other times as the Trustee may reasonably request in writing, within 30 days after receipt by the Issuer of any such request, a list of similar form and content to that in clause (1) hereof as of a date not more than 15 days prior to the time such list is furnished;

provided that, if and so long as the Trustee shall be a Note Registrar, no such list need be furnished.

SECTION 7.02. Reports by Trustee.

Within 60 days after December 31 of each year commencing with December 31, 2021, the Trustee shall transmit to the Holders of Notes (with a copy to the Issuer at the address specified in Section 1.06), in the manner and to the extent provided in TIA Section 313(c), a brief report dated as of such December 31 that complies with TIA Section 313(a), if so required by that Section. The Trustee also shall comply with TIA Section 313(b). A copy of each such report shall, at the time of such transmission to Holders, be filed by the Trustee with each stock exchange, if any, upon which the Notes are listed, with the SEC to the extent the Notes are registered, and with the Issuer. The Issuer will promptly notify the Trustee in writing when the Notes are listed on any stock exchange and any delisting thereof.

ARTICLE EIGHT

MERGER, CONSOLIDATION, AMALGAMATION OR SALE OF ALL OR SUBSTANTIALLY ALL ASSETS

SECTION 8.01. Issuer May Consolidate, Etc., Only on Certain Terms.

(a) The Issuer shall not merge, consolidate or amalgamate with or into (whether or not the Issuer is the surviving Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of the properties or assets of the Issuer and its Subsidiaries, taken as a whole, in one or more related transactions, to any Person unless:

(1) the Issuer is the surviving Person or the Person formed by or surviving any such merger, consolidation or amalgamation (if other than the Issuer) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made is a corporation, partnership, limited partnership, limited liability company, trust or other entity organized or existing under the laws of the United States, any state or territory thereof or the District of Columbia (the Issuer or such Person, as the case may be, being herein called the "*Successor Company*"); *provided* that in the case where the Successor Company of the Issuer is not a corporation, a co-issuer of the Notes is a corporation;

(2) the Successor Company (if other than the Issuer) expressly assumes all of the obligations of the Issuer under this Indenture, the Notes, the Equal Priority Intercreditor Agreement, any Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement and the applicable Security Documents pursuant to supplemental indentures, joinders to the applicable Security Documents, the Equal Priority Intercreditor Agreement, any Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement, or other documents or instruments in form reasonably satisfactory to the Trustee and the Notes Collateral Agent;

(3) immediately after such transaction, no Default or Event of Default exists;

(4) immediately after giving pro forma effect to such transaction and any related financing transactions, as if such transactions had occurred at the beginning of the Applicable Measurement Period,

(A) the Successor Company would be permitted to incur at least $1.00 of additional Indebtedness pursuant to either (x) the Fixed Charge Coverage Ratio test or (y) the Consolidated Total Debt Ratio test, in each case, set forth in the provisions of Section 10.11(a), or

(B) (x) the Fixed Charge Coverage Ratio of the Issuer for the Applicable Measurement Period immediately after such transaction would be equal to or greater than the Fixed Charge Coverage Ratio of the Issuer for the Applicable Measurement Period immediately prior to such transaction or (y) the Consolidated Total Debt Ratio of the Issuer for the Applicable Measurement Period immediately after such transaction would be equal to or less than the Consolidated Total Debt Ratio of the Issuer for the Applicable Measurement Period immediately prior to such transaction;

(5) the Issuer shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such merger, consolidation, amalgamation, sale, assignment, transfer, lease, conveyance or disposition and such supplemental indentures or other documents or instruments, if any, comply with this Indenture; and

(6) to the extent any assets of the Person who is merged, consolidated or amalgamated with or into the Successor Company are assets of the type that would constitute Collateral under the Security Documents, the Successor Company will take such action as may be reasonably necessary to cause such property and assets to be made subject to the Lien of the applicable Security Documents in the manner and to the extent required in this Indenture or the applicable Security Documents and shall take all reasonably necessary action so that such Lien is perfected to the extent required by the applicable Security Documents.

(b) The Successor Company shall succeed to, and be substituted for, the Issuer under this Indenture, the Notes, the Equal Priority Intercreditor Agreement, any Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement and the applicable Security Documents and the Issuer will automatically be released and discharged from its obligations under this Indenture, the Notes, the Equal Priority Intercreditor Agreement, any Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement and the applicable Security Documents, as applicable. Notwithstanding Section 8.01(a)(3) and (4),

(1) any Restricted Subsidiary may merge, consolidate or amalgamate with or into or sell, assign, transfer, lease, convey or otherwise dispose of all or part of its properties and assets to the Issuer or any Restricted Subsidiary; and

(2) the Issuer may merge, consolidate or amalgamate with or into an Affiliate of the Issuer solely for the purpose of reincorporating the Issuer in the United States, any state or territory thereof or the District of Columbia.

SECTION 8.02. Guarantors May Consolidate, Etc., Only on Certain Terms. Subject to Section 12.08, no Guarantor shall, and the Issuer shall not permit a Guarantor to, merge, consolidate or amalgamate with or into (whether or not the Issuer or a Guarantor is the surviving Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets, in one or more related transactions, to any Person unless:

(1)

(A) such Guarantor is the surviving Person or the Person formed by or surviving any such merger, consolidation or amalgamation (if other than such Guarantor) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made is a corporation, partnership, limited partnership, limited liability company, trust or other entity organized or existing under the laws of the jurisdiction of organization of such Guarantor or the laws of the United States, any state or territory thereof or the District of Columbia (such Guarantor or such Person, as the case may be, being herein called the "*Successor Guarantor*");

(B) the Successor Guarantor, if other than such Guarantor, expressly assumes all the obligations of such Guarantor under this Indenture and such Guarantor's related Note Guarantee pursuant to supplemental indentures, joinders to the applicable Security Documents and the Equal Priority Intercreditor Agreement, any Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement or other documents or instruments in form reasonably satisfactory to the Trustee and the Notes Collateral Agent; and

(C) to the extent any assets of the Person who is merged, consolidated or amalgamated with or into the Successor Guarantor are assets of the type that would constitute Collateral under the Security Documents, the Successor Guarantor will take such action as may be reasonably necessary to cause such property and assets to be made subject to the Lien of the applicable Security Documents in the manner and to the extent required in this Indenture or the applicable Security Documents and shall take all reasonably necessary action so that such Lien is perfected to the extent required by the applicable Security Documents; or

(2) the transaction is not prohibited by Section 10.17.

The Successor Guarantor shall succeed to, and be substituted for, such Guarantor under this Indenture, the Equal Priority Intercreditor Agreement, any Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement and the applicable Security Documents and such Guarantor's Note Guarantee and such Guarantor will automatically be released and discharged from its obligations under this Indenture, the Equal Priority Intercreditor Agreement, any Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement and the applicable Security Documents and such Guarantor's Note Guarantee. Notwithstanding the foregoing, any Guarantor may

(i) merge, consolidate or amalgamate with or into or sell, assign, transfer, lease, convey or otherwise dispose of all or part of its properties or assets to another Guarantor or the Issuer, (ii) merge, consolidate or amalgamate with or into the Issuer or an Affiliate of the Issuer solely for the purpose of reincorporating or reorganizing such Guarantor in the United States, any state or territory thereof or the District of Columbia, (iii) convert into a corporation, partnership, limited partnership, limited liability company, trust or other entity organized or existing under the laws of the jurisdiction of organization of such Guarantor or a jurisdiction in the United States, any state or territory thereof or the District of Columbia or (iv) liquidate or dissolve or change its legal form if the Board of the Issuer or the senior management of the Issuer determines in good faith that such action is in the best interests of the Issuer and is not materially disadvantageous to the Holders, in each case, without regard to the requirements set forth in this Section 8.02.

SECTION 8.03. Successor Substituted. Upon any merger, consolidation or amalgamation or any sale, assignment, transfer, lease, conveyance or disposition of all or substantially all of the assets of the Issuer or any Guarantor in accordance with Sections 8.01 and 8.02 hereof, the successor Person formed by such consolidation or into which the Issuer or such Guarantor, as the case may be, is merged or the successor Person to which such sale, assignment, transfer, lease, conveyance or disposition is made, shall succeed to, and be substituted for, and may exercise every right and power of, the Issuer or such Guarantor, as the case may be, under this Indenture or the Note Guarantees, as the case may be, with the same effect as if such successor Person had been named as the Issuer or such Guarantor, as the case may be, herein or in the Note Guarantees, as the case may be. When a successor Person assumes all obligations of its predecessor hereunder, the Notes or the Note Guarantees, as the case may be, such predecessor shall be released from all obligations; *provided* that in the event of a transfer or lease, the predecessor shall not be released from the payment of principal and interest or other obligations on the Notes or the Note Guarantees, as the case may be.

ARTICLE NINE

SUPPLEMENTAL INDENTURES

SECTION 9.01. Amendments or Supplements Without Consent of Holders. The Issuer, any Guarantor (with respect to any amendment relating to its Note Guarantee or this Indenture, the Equal Priority Intercreditor Agreement, any Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement or the Security Documents to which it is a party and excluding any amendment or supplement the sole purpose of which is to add an additional Guarantor), the Trustee, and the Notes Collateral Agent, without the consent of any Holders, may amend the Notes, the Note Guarantee, this Indenture, the Equal Priority Intercreditor Agreement, any Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement or the Security Documents, for any of the following purposes:

(1) to cure any ambiguity, omission, mistake, defect or inconsistency;

(2) to provide for uncertificated Notes in addition to or in place of certificated Notes;

(3) to comply with Article Eight of this Indenture;

(4) to provide for the assumption of the Issuer's or any Guarantor's obligations to the Holders pursuant to the terms of this Indenture, the Equal Priority Intercreditor Agreement, the Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement (if any) or any Security Document;

(5) to make any change that would provide any additional rights or benefits to the Holders or that does not adversely affect the legal rights under this Indenture of any such Holder in any material respect;

(6) to add covenants for the benefit of the Holders or to surrender any right or power conferred upon the Issuer or any Guarantor;

(7) to provide for the issuance of Additional Notes in accordance with the terms of this Indenture;

(8) to comply with requirements of the SEC in order to effect or maintain the qualification of this Indenture under the Trust Indenture Act, if applicable;

(9) to evidence and provide for the acceptance and appointment under this Indenture of a successor Trustee, a successor Paying Agent or a successor Notes Collateral Agent under this Indenture;

(10) to add a Guarantor , a guarantee of a Parent Entity or a co-obligor of the Notes under this Indenture, the Equal Priority Intercreditor Agreement, any Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement and/or the Security Documents;

(11) to conform the text of this Indenture, the Equal Priority Intercreditor Agreement, any Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement, the Security Documents, the Notes or the Note Guarantees to any provision of the "Description of Notes" section of the Offering Memorandum to the extent that such provision in the "Description of Notes" was intended to be a verbatim recitation of a provision of this Indenture, the Equal Priority Intercreditor Agreement, any Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement, any Security Document, the Notes or the Note Guarantees;

(12) to make any amendment to the provisions of this Indenture relating to the transfer and legending of Notes as permitted by this Indenture, including, without limitation, to facilitate the issuance and administration of the Notes; *provided,* however, that such amendment does not materially and adversely affect the rights of Holders to transfer Notes;

(13) to add Collateral with respect to any or all of the Notes and/or the Note Guarantees;

(14) to release any Guarantor from its Note Guarantee pursuant to this Indenture when permitted or required by this Indenture;

(15) to release any Collateral from the Lien securing the Notes when permitted or required by the Security Documents, this Indenture (including pursuant to the second paragraph of Section 10.12) and including any release of any Lien that is not then otherwise required by this Indenture to be pledged as security for the Notes or the Equal Priority Intercreditor Agreement; and

(16) to comply with the rules of any applicable securities depositary;

(17) to add any Additional Equal Priority Secured Parties to any Security Documents or the Equal Priority Intercreditor Agreement or add any Junior Priority Secured Parties to any Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement;

(18) to enter into any intercreditor agreement having substantially similar terms with respect to the Holders as those set forth in the Equal Priority Intercreditor Agreement, taken as a whole, or any joinder thereto or to enter into any Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement;

(19) in the case of any Security Document, to include therein any legend required to be set forth therein pursuant to the Equal Priority Intercreditor Agreement or any Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement, or to modify any such legend as required by the Equal Priority Intercreditor Agreement or any Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement;

(20) with respect to the Security Documents, the Equal Priority Intercreditor Agreement and any Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement, as provided in the relevant Security Document, Equal Priority Intercreditor Agreement, Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement, as applicable; or

(21) to provide for the succession of any parties to the Security Documents, the Equal Priority Intercreditor Agreement or any Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement (and any amendments that are administrative or ministerial in nature) in connection with an amendment, renewal, extension, substitution, refinancing, restructuring, replacement, supplementing or other modification from time to time of the Senior Credit Facilities or any other agreement that is not prohibited by this Indenture.

For avoidance of doubt, the Issuer need not be a party to any supplemental indenture entered into pursuant to Section 10.15 or 12.03.

SECTION 9.02. Amendments, Supplements or Waivers with Consent of Holders.

(a) Except as provided in this Section 9.02, this Indenture, the Notes, any Note Guarantee, the Equal Priority Intercreditor Agreement, any Junior Priority Intercreditor Agreement, any Acceptable Junior Priority Intercreditor Agreement or the Security Documents may be amended or supplemented and any existing Default or Event of Default or compliance with any provision of this Indenture, the Notes, any Note Guarantee, the Equal Priority Intercreditor Agreement, any Junior Priority Intercreditor Agreement, any Acceptable Junior Priority Intercreditor Agreement or any Security Document may be waived, in each case, with the consent of the Holders of at least a majority in aggregate principal amount of Outstanding Notes, other than Notes beneficially owned by the Issuer or its Affiliates, including consents or waivers obtained in connection with a purchase of, or tender offer (including a Change of Control Offer) or exchange offer for, the Notes.

(b) Without the consent of each affected Holder, no such amendment, supplement or waiver shall, with respect to any Notes held by a non-consenting Holder:

(1) reduce the principal amount of such Notes whose Holders must consent to an amendment, supplement or waiver;

(2) reduce the principal of or change the Maturity of any such Note or reduce the premium payable upon the redemption of such Notes or change the time at which such Notes may be redeemed pursuant to Section 11.01; *provided* that any amendment to the minimum notice requirement may be made with the consent of the Holders of a majority in aggregate principal amount of Outstanding Notes;

(3) reduce the rate of or change the time for payment of interest on any Note,

(4) waive a Default or Event of Default in (a) the payment of principal of or premium, if any, or interest on the Notes, except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the Outstanding Notes and a waiver of the payment default that resulted from such acceleration, or (b) in respect of a covenant or provision contained in this Indenture or any Note Guarantee which cannot be amended or modified without the consent of all affected Holders;

(5) make any Note payable in money other than that stated therein;

(6) make any change in Section 5.13 or the rights of Holders to receive payments of principal of or premium, if any, or interest on the Notes;

(7) make any change in these amendment and waiver provisions;

(8) amend the contractual right expressly set forth in this Indenture or any Note of any Holder to institute suit for the enforcement of any payment of principal, premium, if any, and interest on such Holder's Notes on or after the due dates therefor;

(9) make any change to or modify the ranking of the Notes that would adversely affect the Holders; or

(10) except as expressly permitted by this Indenture, modify the Note Guarantees of any Significant Subsidiary in any manner materially adverse to the Holders.

(c) Notwithstanding the foregoing in (a) or (b) above, without the consent of the Holders of at least 66 2/3% in aggregate principal amount of the Notes then outstanding, no amendment or waiver may (A) make any change in any Security Document, the Equal Priority Intercreditor Agreement, any Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement or the provisions in this Indenture dealing with Collateral or application of trust proceeds of the Collateral with the effect of releasing the Liens on all or substantially all of the Collateral which secure the Secured Notes Obligations or (B) change or alter the priority of the Liens securing the Secured Notes Obligations in any material portion of the Collateral in any way materially adverse, taken as a whole, to the Holders, other than, in each case, as provided under the terms of this Indenture, the Security Documents or the Equal Priority Intercreditor Agreement.

SECTION 9.03. Execution of Amendments, Supplements or Waivers. In executing, or accepting the additional trusts created by, any amendment, supplement or waiver permitted by this Article or the modifications thereby of the trusts created by this Indenture, the Trustee shall be provided with, and shall be fully protected in relying upon, an Officer's Certificate and Opinion of Counsel stating that the execution of such amendment, supplement or waiver is authorized and permitted by this Indenture and that such amendment, supplement or waiver is the legal, valid and binding obligation of the Issuer and any Guarantors party thereto, enforceable against them in accordance with its terms, subject to

customary exceptions and qualifications, and complies with the provisions hereof. Guarantors may, but shall not be required to, execute supplemental indentures that do not modify such Guarantor's Note Guarantee. The Trustee may, but shall not be obligated to, enter into any such amendment, supplement or waiver which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

SECTION 9.04. Effect of Amendments, Supplements or Waivers. Upon the execution of any supplemental indenture under this Article, this Indenture shall be modified in accordance therewith, and such amendment, supplement or waiver shall form a part of this Indenture for all purposes; and every Holder of Notes theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

SECTION 9.05. [Reserved].

SECTION 9.06. Reference in Notes to Supplemental Indentures. Notes authenticated and delivered after the execution of any supplemental indenture pursuant to this Article may, and shall if required by the Trustee, bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Issuer shall so determine, new Notes so modified as to conform, in the opinion of the Trustee and the Issuer, to any such supplemental indenture may be prepared and executed by the Issuer and authenticated and delivered by the Trustee in exchange for Outstanding Notes.

SECTION 9.07. Notice of Supplemental Indentures. Promptly after the execution by the Issuer, any Guarantor and the Trustee of any supplemental indenture pursuant to the provisions of Section 9.02, the Issuer shall give notice thereof to the Holders of each Outstanding Note affected, in the manner provided for in Section 1.07, setting forth in general terms the substance of such supplemental indenture; provided that failure to give such notice shall not impair the validity of such supplemental indenture.

ARTICLE TEN

COVENANTS

SECTION 10.01. Payment of Principal, Premium, if any, and Interest. The Issuer covenants and agrees for the benefit of the Holders that it will duly and punctually pay the principal of (and premium, if any) and interest on the Notes in accordance with the terms of the Notes and this Indenture.

The Issuer shall pay interest on overdue principal at the rate specified therefor in the Notes, and it shall pay interest on overdue installments of interest at the same rate to the extent lawful.

SECTION 10.02. Maintenance of Office or Agency. The Issuer will maintain in The City of New York, an office or agency where Notes may be presented or surrendered for payment, where Notes may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Issuer in respect of the Notes and this Indenture may be served. The designated office of the Trustee shall be such office or agency of the Issuer in The City of New York, unless the Issuer shall designate and maintain some other office or agency for one or more of such purposes. The Issuer will give prompt written notice to the Trustee of any change in the location of such office or agency. If at any time the Issuer shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee, and the Issuer hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands.

The Issuer may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind any such designation; provided, that no such designation or rescission shall in any manner relieve the Issuer of its obligation to maintain an office or agency in The City of New York. The Issuer will give prompt written notice to the Trustee of any such designation or rescission and any change in the location of any such other office or agency.

SECTION 10.03. Money for Notes Payments to Be Held in Trust. If the Issuer shall at any time act as its own Paying Agent, it will, on or before each due date of the principal of (or premium, if any) or interest on any of the Notes, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the principal of (or premium, if any) or interest so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided and will promptly notify the Trustee in writing of its action or failure so to act.

Whenever the Issuer shall have one or more Paying Agents for the Notes, it will, on or before each due date of the principal of (or premium, if any) or interest on any Notes in accordance with Section 10.01, deposit with a Paying Agent a sum sufficient to pay the principal (and premium, if any) or interest so becoming due, such sum to be held in trust for the benefit of the Persons entitled to such principal, premium or interest, and (unless such Paying Agent is the Trustee) the Issuer will promptly notify the Trustee in writing of such action or any failure so to act.

Each Paying Agent agrees:

(1) that it will hold all sums received by it as Paying Agent for the payment of the principal of or interest on any Notes in trust for the benefit of the Holders or of the Trustee;

(2) that it will give the Trustee notice of any failure by the Issuer to make any payment of the principal of or interest on any Notes and any other payments to be made by or on behalf of the Issuer under this Indenture or the Notes when the same shall be due and payable; and

(3) that it will pay any such sums so held in trust by it to the Trustee forthwith upon the Trustee's written request at any time during the continuance of the failure referred to in clause (2) above.

The Issuer may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or by Issuer Order direct any Paying Agent to pay, to the Trustee all sums held in trust by the Issuer or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Issuer or such Paying Agent; and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such sums.

Any money deposited with the Trustee or any Paying Agent, or then held by the Issuer, in trust for the payment of the principal of (or premium, if any) or interest on any Note and remaining unclaimed for two years after such principal, premium or interest has become due and payable shall be paid to the Issuer on Issuer Request or (if then held by the Issuer) shall be discharged from such trust; and the Holder of such Note shall thereafter, as an unsecured general creditor, look only to the Issuer for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Issuer as Trustee thereof, shall thereupon cease.

SECTION 10.04. Organizational Existence. Subject to Article Eight, the Issuer will do or cause to be done all things necessary to preserve and keep in full force and effect its organizational existence. For the avoidance of doubt, the Issuer will be permitted to change its organizational form; *provided* that for so long as the Issuer is not a corporation, there will be a co-issuer of the Notes that is a corporation.

SECTION 10.05. Payment of Taxes and Other Claims. The Issuer will pay or discharge or cause to be paid or discharged, before the same shall become delinquent, (1) all material taxes, assessments and governmental charges levied or imposed upon the Issuer or any Subsidiary or upon the income, profits or property of the Issuer or any Subsidiary and (2) all material lawful claims for labor, materials and supplies, which, if unpaid, might by law become a lien upon the property of the Issuer or any Subsidiary; *provided*, that the Issuer shall not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith by appropriate proceedings and for which appropriate reserves, if necessary (in the good faith judgment of management of the Issuer) are being maintained in accordance with GAAP.

SECTION 10.06. [Reserved].

SECTION 10.07. [Reserved].

SECTION 10.08. Statement by Officer as to Default.

(a) The Issuer will deliver to the Trustee within 120 days after the end of each fiscal year, an Officer's Certificate stating that a review of the activities of the Issuer and its Restricted Subsidiaries during the preceding fiscal year has been made under the supervision of the signing officer with a view to determining whether it has kept, observed, performed and fulfilled, and has caused each of its Restricted Subsidiaries to keep, observe, perform and fulfill its obligations under this Indenture and further stating that, to the best of his or her knowledge, the Issuer during such preceding fiscal year has kept, observed, performed and fulfilled, and has caused each of its Restricted Subsidiaries to keep, observe, perform and fulfill each and every such covenant contained in this Indenture and at the date of such certificate there is no Default or Event of Default which has occurred and is continuing or, if such signers do know of such Default or Event of Default, the certificate shall include a description of the event and what action each is taking or proposes to take with respect thereto. The Officer's Certificate shall also notify the Trustee should the Issuer elect to change the manner in which it fixes its fiscal year-end.

(b) When any Default has occurred and is continuing under this Indenture, the Issuer shall deliver to the Trustee by registered or certified mail or facsimile transmission an Officer's Certificate specifying such event, notice or other action within 30 days of becoming aware of such Default.

SECTION 10.09. Reports and Other Information.

(a) So long as any Notes are Outstanding, the Issuer shall furnish to the Holders:

(1) (x) all annual and quarterly financial statements substantially in forms that would be required to be contained in a filing with the SEC on Forms 10-K and 10-Q of the Issuer, plus a "Management's Discussion and Analysis of Financial Condition and Results of Operations" and (y) with respect to the annual financial statements only, a report on the annual financial statements by the Issuer's independent registered public accounting firm; and

(2) promptly after the occurrence of an event required to be therein reported, such other information containing substantially the same information that would be required to be contained in filings with the SEC on Form 8-K under Items 1.01, 1.02, 1.03, 2.01, 2.03, 2.04, 2.05, 2.06, 3.01, 4.01, 4.02(a) and (b), 5.01 and 5.02; *provided*, *however*, that no such current report will be required to include as an exhibit, or to include a summary of the terms of, any employment or compensatory arrangement agreement, plan or understanding between the Issuer (or any of its Subsidiaries) and any director, manager or executive officer, of the Issuer (or any of its Subsidiaries);

provided, *however*, that (i) in no event shall such information and reports be required to comply with Rule 13-01 of Regulation S-X promulgated by the SEC or contain any financial statements of unconsolidated Subsidiaries or 50% or less owned Persons under Rule 3-09 of Regulation S-X or any schedules required by Regulation S-X or contain separate financial statements for the Issuer, the Guarantors or other Affiliates the shares of which are pledged to secure the Notes or any Note Guarantee that would be required under Rule 13-01 of Regulation S-X or Rule 13-02 of Regulation S-X promulgated by the SEC, (ii) in no event shall such information and reports be required to comply with Regulation G under the Exchange Act or Item 10(e) of Regulation S-K promulgated by the SEC with respect to any non-GAAP financial measures contained therein, (iii) in no event shall such information and reports be required to include any information that is not otherwise similar to information currently included in the Offering Memorandum, other than with respect to reports provided under Section 10.09(a)(2) above and (iv) no such information and reports referenced under Section 10.09(a)(2) above shall be required to be furnished if the Issuer determines in its good faith judgment that such event is not material to the Holders or the business, assets, operations or financial position of the Issuer and its Restricted Subsidiaries, taken as a whole.

All such annual information and reports shall be furnished within 90 days after the end of the fiscal year to which they relate, and all such quarterly information shall be furnished within 45 days after the end of the fiscal quarter to which they relate.

At any time that any of the Issuer's Subsidiaries are Unrestricted Subsidiaries and if any such Unrestricted Subsidiary or group of Unrestricted Subsidiaries, if taken together as one Subsidiary, would hold in the aggregate more than 5.0% of the Total Assets of the Issuer, then the quarterly and annual financial information required by the preceding paragraph will include a reasonably detailed presentation, either (i) on the face of the financial statements or in the footnotes thereto, (ii) in "Management's Discussion and Analysis of Financial Condition and Results of Operations" or (iii) in any other comparable section, of the financial condition and results of operations of the Issuer and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Issuer.

The Issuer will make available such information and such reports (as well as the details regarding the conference call described below) to the Trustee under this Indenture, to any Holder of the Notes and, upon request, to any beneficial owner of the Notes, in each case by posting such information and reports on its website, on Intralinks or any comparable password-protected online data system which will require a confidentiality acknowledgment, and will make such information and reports readily available to any Holder of the Notes, any bona fide prospective investor in the Notes, any securities analyst (to the extent providing analysis of investment in the Notes) or any market maker in the Notes who agrees to treat such information as confidential or accesses such information and reports on Intralinks or any comparable password-protected online data system which will require a confidentiality acknowledgment; *provided* that the Issuer shall post such information and reports thereon and make readily available any password or other login information to any such Holder of the Notes, bona fide prospective investor, securities analyst or market maker; *provided*, *further*, that the Issuer may deny

access to any competitively-sensitive information or reports otherwise to be provided pursuant to this paragraph to any such Holder, bona fide prospective investor, security analyst or market maker that is a competitor of the Issuer and its Subsidiaries to the extent that the Issuer determines in good faith that the provision of such information or reports to such Person would be competitively harmful to the Issuer and its Subsidiaries; and *provided*, *further*, that such Holders, bona fide prospective investors, security analysts or market makers shall agree to (i) treat all such reports (and the information contained therein) and information as confidential, (ii) not use such reports and the information contained therein for any purpose other than their investment or potential investment in the Notes and (iii) not publicly disclose any such reports (and the information contained therein).

(b) So long as any Notes are Outstanding, the Issuer shall also:

(1) after:

(A) furnishing to the Holders the annual and quarterly information and reports required by Section 10.09(a)(1), or

(B) furnishing to the Holders, at the option and in the sole discretion of the Issuer (who shall not be obligated to so furnish), summary condensed consolidated annual or quarterly income statement and balance sheet, as applicable, without notes thereto, and a summary discussion of the results of operations for the relevant reporting period,

promptly hold a conference call to discuss such information and reports or summary information and the results of operations for the relevant reporting period (which conference call, for the avoidance of doubt, may be held prior to such time that the annual or quarterly information and reports required by Section 10.09(a)(1) are furnished to Holders); and

(2) issue a press release to the appropriate nationally recognized wire services prior to the date of the conference call required to be held in accordance with Section 10.09(b)(1) announcing the time and date of such conference call and either including all information necessary to access the call or informing Holders, bona fide prospective investors, market makers and securities analysts how they can obtain such information.

(c) In addition, the Issuer shall furnish to prospective investors, upon their request, any information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act so long as the Notes are not freely transferable under the Securities Act.

(d) Any Parent Entity may satisfy the Issuer's obligations under this Section 10.09 by providing the requisite financial and other information of such Parent Entity instead of the Issuer; *provided* that to the extent such Parent Entity holds assets (other than its direct or indirect interest in the Issuer) that exceeds the lesser of (i) 1% of the Total Assets of such Parent Entity and (ii) 1% of the total revenue for the preceding fiscal year of such Parent Entity, then such information related to such Parent Entity shall be accompanied by consolidating information, which may be unaudited, that explains in reasonable detail the differences between the information of such Parent Entity, on the one hand, and the information relating to the Issuer and its Subsidiaries on a stand-alone basis, on the other hand.

(e) The Issuer shall be deemed to have furnished the financial statements and other information referred to in Section 10.09(a) if the Issuer or any Parent Entity has filed reports containing such information (or any such information of a Parent Entity in accordance with Section 10.09(d)) with the SEC.

To the extent any information is not provided within the time periods specified in this Section 10.09 and such information is subsequently provided, the Issuer shall be deemed to have satisfied its obligations with respect thereto at such time and any Default with respect thereto shall be deemed to have been cured.

SECTION 10.10. Limitation on Restricted Payments.

(a) The Issuer shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly:

(I) declare or pay any dividend or make any payment or distribution on account of the Issuer's or any of its Restricted Subsidiaries' Equity Interests, including any dividend or distribution payable in connection with any merger, amalgamation or consolidation other than:

(A) dividends, payments or distributions by the Issuer payable solely in Equity Interests (other than Disqualified Stock) of the Issuer or in options, warrants or other rights to purchase such Equity Interests (other than Disqualified Stock); or

(B) dividends, payments or distributions by a Restricted Subsidiary so long as, in the case of any dividend, payment or distribution payable on or in respect of any class or series of securities issued by a Restricted Subsidiary, the Issuer or a Restricted Subsidiary receives at least its pro rata share of such dividend, payment or distribution in accordance with its Equity Interests in such class or series of securities;

(II) redeem, purchase, repurchase, defease or otherwise acquire or retire for value any Equity Interests of the Issuer or any Parent Entity, including in connection with any merger, amalgamation or consolidation, in each case, held by a Person other than the Issuer or a Restricted Subsidiary;

(III) make any principal payment on, or redeem, purchase, repurchase, defease, discharge or otherwise acquire or retire for value, in each case, prior to any scheduled repayment, sinking fund payment or maturity, any Subordinated Indebtedness, other than:

(A) Indebtedness permitted to be incurred or issued under clauses (7), (8) or (9) of Section 10.11(b); or

(B) the prepayment, redemption, purchase, repurchase, defeasance, discharge or other acquisition or retirement of Subordinated Indebtedness in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of prepayment, redemption, purchase, repurchase, defeasance, discharge or acquisition or retirement; or

(IV) make any Restricted Investment (all such payments and other actions set forth in clauses (I) through (IV) above (other than any exceptions thereto) being collectively referred to as "*Restricted Payments*"), unless, at the time of such Restricted Payment:

(1) no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof;

(2) immediately after giving effect to such transaction on a pro forma basis, the Issuer could incur $1.00 of additional Indebtedness under Section 10.11(a); and

(3) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Issuer and its Restricted Subsidiaries on or after November 29, 2017 (including Restricted Payments permitted by clause (1), (6)(C) or (8) of Section 10.10(b), but excluding all other Restricted Payments permitted by Section 10.10(b)), is less than the sum of (without duplication):

(A) 50% of the Consolidated Net Income of the Issuer (including any predecessor of the Issuer) for the period (taken as one accounting period) beginning on October 1, 2017 to the end of the Issuer's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment, or, in the case such Consolidated Net Income for such period is a deficit, minus 100% of such deficit, *plus*

(B) 100% of the aggregate net cash proceeds and the fair market value of marketable securities or other property received by the Issuer and its Restricted Subsidiaries since immediately after November 29, 2017 (other than net cash proceeds to the extent such net cash proceeds have been used to incur Indebtedness or issue Disqualified Stock or Preferred Stock pursuant to Section 10.11(b)(12) (i) from the issue or sale of:

(x) (A) Equity Interests of the Issuer, including Treasury Capital Stock (as defined below), but excluding cash proceeds and the fair market value of marketable securities or other property received from the sale of:

(i) Equity Interests to any future, current or former employee, director, manager or consultant of the Issuer, its Subsidiaries or any Parent Entity after November 29, 2017 to the extent such amounts have been applied to Restricted Payments made in accordance with Section 10.10(b)(4); and

(ii) Designated Preferred Stock; and

(B) Equity Interests of Parent Entities, to the extent such net cash proceeds and the fair market value of marketable securities or other property are actually contributed to the Issuer (excluding contributions of the proceeds from the sale of Designated Preferred Stock of such companies to the extent such amounts have been applied to Restricted Payments made in accordance with Section 10.10(b)(4); or

(y) Indebtedness or Disqualified Stock of the Issuer or any Restricted Subsidiary that has been converted into or exchanged for such Equity Interests (other than Disqualified Stock and Designated Preferred Stock) of the Issuer or a Parent Entity;

provided, however, that this clause (b) shall not include the proceeds from (W) Refunding Capital Stock (as defined below) applied in accordance with Section 10.10(b)(2), (X) Equity Interests (or Indebtedness that has been converted or exchanged for Equity Interests) of the Issuer or a Parent Entity sold to a Restricted Subsidiary, (Y) Disqualified Stock (or debt securities that have been converted or exchanged into Disqualified Stock or Designated Preferred Stock) or (Z) Excluded Contributions, *plus*

(C) 100% of the aggregate amount of cash and the fair market value of marketable securities or other property contributed to the capital of the Issuer or a Restricted Subsidiary or that becomes part of the capital of the Issuer or a Restricted Subsidiary through consolidation or merger following November 29, 2017 (other than net cash proceeds to the extent such net cash proceeds (i) have been used to incur Indebtedness or issue Disqualified Stock or Preferred Stock pursuant to Section 10.11(b)(12)(i), (ii) are contributed by a Restricted Subsidiary or (iii) constitute Excluded Contributions), plus

(D) 100% of the aggregate amount received in cash and the fair market value of marketable securities or other property received by the Issuer or a Restricted Subsidiary by means of:

(A) the sale or other disposition (other than to the Issuer or a Restricted Subsidiary) of, or other returns on, Restricted Investments made by the Issuer or its Restricted Subsidiaries (including repurchases and redemptions of such Investments and cash distributions or cash interest received in respect thereof) and repayments of loans or advances, and releases of guarantees which constitute Restricted Investments made by the Issuer or its Restricted Subsidiaries, in each case, after November 29, 2017; or

(B) the issuance, sale or other disposition (other than to the Issuer or a Restricted Subsidiary) of the Equity Interests of, or a dividend or distribution from, an Unrestricted Subsidiary after November 29, 2017 (other than, in each case, to the extent the Investment in such Unrestricted Subsidiary constituted a Permitted Investment made after November 29, 2017); *plus*

(E) in the case of the redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary or the merger, amalgamation or consolidation of an Unrestricted Subsidiary into the Issuer or a Restricted Subsidiary or the transfer of assets of an Unrestricted Subsidiary to the Issuer or a Restricted Subsidiary after November 29, 2017, the fair market value of the Investment in such Unrestricted Subsidiary (or the net assets transferred) at the time of the redesignation, merger, amalgamation, consolidation or transfer of such Unrestricted Subsidiary as a Restricted Subsidiary (other than to the extent such Investment constituted a Permitted Investment made after November 29, 2017); *plus*

(F) $50.0 million.

(b) The foregoing provisions shall not prohibit:

(1) the payment of any dividend or distribution or the consummation of any irrevocable redemption within 60 days after the date of declaration thereof or the giving of such irrevocable notice, as applicable, if, at the date of declaration or the giving of such notice, such payment would have complied with the provisions of this Indenture (assuming, in the case of a redemption payment, the giving of the notice of such redemption payment would have been deemed to be a Restricted Payment at such time);

(2) (a) the redemption, purchase, repurchase, defeasance or other acquisition or retirement of any Equity Interests of the Issuer ("*Treasury Capital Stock*") (including any accrued and unpaid dividends thereon), or Subordinated Indebtedness or any Equity Interests of any Parent Entity, in exchange for, or in an amount equal to or less than the proceeds of a sale or issuance (other than to a Restricted Subsidiary) of Equity Interests of the Issuer or any Parent Entity that is made within 90 days of such sale to the extent such amount was contributed to the Issuer (in each case, other than any Disqualified Stock) ("*Refunding Capital Stock*") and (b) if immediately prior to the retirement of Treasury Capital Stock, the declaration and payment of dividends thereon was permitted under Section 10.10(b)(6), the declaration and payment of dividends on the Refunding Capital Stock (other than Refunding Capital Stock the proceeds of which were used to redeem, purchase, repurchase, defease, acquire or otherwise retire any Equity Interests of any Parent Entity) in an aggregate amount per year no greater than the aggregate amount of dividends per annum that were declarable and payable on such Treasury Capital Stock immediately prior to such retirement;

(3) the prepayment, redemption, purchase, repurchase, defeasance, discharge or other acquisition or retirement of (i) Subordinated Indebtedness made in exchange for, or in an amount equal to or less than the proceeds of a sale of, new Indebtedness or Disqualified Stock of the Issuer or a Guarantor, that is made within 90 days of such sale or (ii) Disqualified Stock of the Issuer or a Guarantor made in exchange for, or in an amount equal to or less than the proceeds of a sale of, Disqualified Stock of the Issuer or a Guarantor, that is made within 90 days of such sale and, in each case of (i) and (ii), is incurred or issued in compliance with Section 10.11 so long as:

(A) the principal amount (or accreted value, if applicable) of such new Indebtedness or the liquidation preference of such new Disqualified Stock does not exceed the principal amount of (or accreted value, if applicable), plus any accrued and unpaid interest on, the Subordinated Indebtedness or the liquidation preference of, plus any accrued and unpaid dividends on, the Disqualified Stock being so prepaid, redeemed, purchased, repurchased, defeased, discharged, acquired, retired or exchanged, plus the amount of any premium (including tender premiums), defeasance costs, underwriting discounts and any fees, costs and expenses incurred in connection with the issuance of such new Indebtedness or Disqualified Stock and such prepayment, redemption, defeasance, repurchase, acquisition, retirement, discharge or exchange;

(B) such new Indebtedness is subordinated to the Notes or the applicable Note Guarantee at least to the same extent as such Subordinated Indebtedness so prepaid, redeemed, purchased, repurchased, defeased, discharged, acquired, retired or exchanged;

(C) such new Indebtedness or Disqualified Stock has a final scheduled maturity date or mandatory redemption date, as applicable, equal to or later than the final scheduled maturity date or mandatory redemption date of the Subordinated Indebtedness or Disqualified Stock being so prepaid, redeemed, purchased, repurchased, defeased, discharged, acquired, retired or exchanged (or if earlier, such date that is at least 91 days after the maturity date of the Notes); and

(D) such new Indebtedness or Disqualified Stock has a Weighted Average Life to Maturity equal to or greater than the remaining Weighted Average Life to Maturity of the Subordinated Indebtedness or Disqualified Stock being so prepaid, redeemed, purchased, repurchased, defeased, discharged, acquired, retired or exchanged (or requires no or nominal payments in cash (other than interest payments) prior to the date that is 91 days after the maturity date of the Notes);

(4) a Restricted Payment to pay for the redemption, purchase, repurchase, defeasance or other acquisition or retirement of Equity Interests (other than Disqualified Stock) of the Issuer or any Parent Entity held by any future, present or former employee, director, officer, manager or consultant (or their respective Controlled Investment Affiliates or Immediate Family Members, or any Permitted Transferee thereof) of the Issuer, any of its Subsidiaries or any Parent Entity pursuant to any management, director, employee and/or advisor equity plan or equity option plan, stock appreciation rights plan, or any other management, director, employee and/or advisor benefit plan or agreement or any equity subscription or equityholder agreement or any employment termination agreement (including, for the avoidance of doubt, any principal and interest payable on any Indebtedness issued by the Issuer or any Parent Entity in connection with such repurchase, retirement or other acquisition), including any Equity Interests rolled over by management, directors or employees of the Issuer, any of its Subsidiaries or any Parent Entity in connection with any corporate transaction; *provided*, *however*, that the aggregate Restricted Payments made under this clause (4) do not exceed in any fiscal year the greater of (x) $35.0 million and (y) 10.0% of Consolidated EBITDA of the Issuer and its Restricted Subsidiaries as of the end of the Applicable Measurement Period (with unused amounts in any fiscal year being carried over to one or more succeeding fiscal years); *provided*, *further*, that such amount in any fiscal year may be increased by an amount not to exceed:

(A) the cash proceeds from the sale of Equity Interests (other than Disqualified Stock and Designated Preferred Stock) of the Issuer and, to the extent contributed to the Issuer, the cash proceeds from the sale of Equity Interests of any Parent Entity, in each case, to any future, present or former employees, directors, officers, managers or consultants (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Issuer, any of its Subsidiaries or any Parent Entity that occurs on or after the Issue Date, to the extent the cash proceeds from the sale of such Equity Interests have not otherwise been applied to the payment of Restricted Payments by virtue of Section 10.10(a)(3); *plus*

(B) the cash proceeds of key man life insurance policies received by the Issuer or its Restricted Subsidiaries (or any Parent Entity to the extent contributed to the Issuer) after the Issue Date; *less*

(C) the amount of any Restricted Payments previously made with the cash proceeds described in clauses (A) and (B) of this Section 10.10(b)(4);

provided that the Issuer may elect to apply all or any portion of the aggregate increase contemplated by clauses (A) and (B) of this Section 10.10(b)(4) in any fiscal year;

and *provided further*, that cancellation of Indebtedness owing to the Issuer or any Restricted Subsidiary from any future, present or former employees, directors, officers, managers or consultants (or their respective Controlled Investment Affiliates or Immediate Family Members, or any Permitted Transferee thereof) of the Issuer, any of its Restricted Subsidiaries or any Parent Entity in connection with a repurchase of Equity Interests of the Issuer or any Parent Entity will not be deemed to constitute a Restricted Payment for purposes of this Section 10.10 or any other provision of this Indenture;

(5) the declaration and payment of dividends to holders of any class or series of Disqualified Stock of the Issuer or any of its Restricted Subsidiaries or any class or series of Preferred Stock of any Restricted Subsidiary, in each case issued in accordance with the covenant described under Section 10.11 to the extent such dividends are included in the definition of "Fixed Charges;"

(6)

(A) the declaration and payment of dividends to holders of any class or series of Designated Preferred Stock (other than Disqualified Stock) issued by the Issuer after the Issue Date; *provided* that, the amount of dividends paid pursuant to this clause (A) shall not exceed the net cash proceeds received by the Issuer from the issuance of such Designated Preferred Stock;

(B) the declaration and payment of dividends to a Parent Entity, the proceeds of which shall be used to fund the payment of dividends to holders of any class or series of Designated Preferred Stock (other than Disqualified Stock) of such Parent Entity issued after the Issue Date; *provided* that the amount of dividends paid pursuant to this clause (B) shall not exceed the aggregate amount of cash actually contributed to the Issuer from the sale of such Designated Preferred Stock; or

(C) the declaration and payment of dividends on Refunding Capital Stock that is Preferred Stock in excess of the dividends declarable and payable thereon pursuant to Section 10.10(b)(2); *provided* that, the amount of dividends paid pursuant to this clause (C) shall not exceed the net cash proceeds received by the Issuer from the issuance of such Preferred Stock;

provided, however, that, in the case of each of clause (A) and (C) of this Section 10.10(b)(6), for the Applicable Measurement Period at the date of issuance of such Designated Preferred Stock or the declaration of such dividends on Refunding Capital Stock that is Preferred Stock, after giving effect to such issuance or declaration on a *pro forma* basis, the Issuer would have had either (x) a Fixed Charge Coverage Ratio of at least 2.00 to 1.00 or (y) a Consolidated Total Debt Ratio of equal to or less than 5.50 to 1.00;

(7) payments made or expected to be made by the Issuer or any Restricted Subsidiary in respect of withholding or similar taxes payable in connection with the exercise or vesting of Equity Interests or any other equity award by any future, present or former employee, director, officer, manager or consultant (or their respective Controlled Investment Affiliates or Immediate Family Members, or any Permitted Transferee thereof) of the Issuer, any of its Restricted Subsidiaries or any Parent Entity and repurchases or withholdings of Equity Interests in connection with the exercise of any stock or other equity options or warrants or other incentive interests or the vesting of equity awards if such Equity Interests represent all or a portion of the exercise price thereof or payments in lieu of the issuance of fractional Equity Interests, or withholding obligation with respect to, such options or warrants or other incentive interests or other Equity Interests or equity awards;

(8) the declaration and payment of dividends on the Issuer's common equity (or the payment of dividends to any Parent Entity to fund a payment of dividends on such entity's common equity) or the redemption, purchase, repurchase, defeasance or other acquisition or retirement of any Equity Interests of the Issuer in an amount not to exceed 6.0% per annum of the net cash proceeds received by or contributed to the Issuer in or from any public offering of the Issuer's common equity or the common equity of any Parent Entity, other than public offerings with respect to the Issuer's common equity registered on Form S-8 and other than any public sale constituting an Excluded Contribution;

(9) Restricted Payments that are made in an amount that does not exceed the aggregate amount of Excluded Contributions received following the Issue Date;

(10) other Restricted Payments in an aggregate amount, taken together with all other Restricted Payments made pursuant to this clause (10), not to exceed (i) the greater of (x) $100.0 million and (y) 27.5% of Consolidated EBITDA of the Issuer and its Restricted Subsidiaries as of the end of the Applicable Measurement Period (the greater of such amount, the "*General Restricted Payments Amount*") and (ii) without duplication with clause (i), in an amount equal to the amount by which aggregate net cash proceeds from any sale or disposition of, or any distribution or returns in respect of, Restricted Investments made in reliance on clause (i) exceeds the General Restricted Payments Amount and provided that such amount will not increase the amount available for Restricted Payments under Section 10.10(a)(3);

(11) [reserved];

(12) the prepayment, redemption, purchase, repurchase, defeasance, discharge or other acquisition or retirement of any Subordinated Indebtedness (A) in accordance with provisions similar to those of Section 10.16 and Section 10.17 or (B) after completion of an Asset Sale Offer, from any remaining Excess Proceeds (assuming such Excess Proceeds were not reset at zero upon completion of an Asset Sale Offer); *provided* that (x) at or prior to such prepayment, redemption, purchase, repurchase, defeasance, discharge or other acquisition or retirement, the Issuer (or a third Person permitted by this Indenture) has made a Change of Control Offer or Asset Sale Offer, as the case may be, to the extent required as a result of such Change of Control or Asset Sale, as the case may be, and (y) all Notes tendered by Holders in connection with the relevant Change of Control Offer or Asset Sale Offer, as applicable, have been prepaid, redeemed, purchased, repurchased, defeased, discharged, acquired or retired;

(13) the declaration and payment of dividends or distributions by the Issuer, or the making of loans, to any Parent Entity in amounts required for any Parent Entity to pay or cause to be paid, in each case, without duplication,

(A) franchise, excise and similar taxes and other fees, taxes and expenses, in each case, required to maintain their corporate or other legal existence;

(B) for any taxable period for which the Issuer and/or any of its Subsidiaries are members of a consolidated, combined or unitary tax group for U.S. federal and/or applicable state, local, provincial, territorial or foreign income or similar tax purposes of which a Parent Entity is the common parent (a "*Tax Group*"), the portion of any U.S.

federal, state, local, provincial, territorial or foreign income or similar taxes (as applicable), including any interest or penalties related thereto, of such Tax Group for such taxable period that are attributable to the income, revenue, receipts or capital of the Issuer and/or its Subsidiaries; *provided* that payments made pursuant to this subclause (B) shall not exceed the amount of liability that the Issuer and/or its Subsidiaries (as applicable) would have incurred were such taxes determined as if such entity(ies) were a stand-alone taxpayer or a stand-alone group; *provided, further*, that payments under this clause (B) in respect of any taxes attributable to the income of any Unrestricted Subsidiaries of the Issuer may be made only to the extent that such Unrestricted Subsidiaries have made cash payments for such purpose to the Issuer or its Restricted Subsidiaries;

(C) customary salary, bonus, severance, and other benefits payable to, and indemnities provided on behalf of, future, current or former officers, employees, directors, managers and consultants of any Parent Entity to the extent such salaries, bonuses, severance and other benefits and indemnities are attributable to the ownership or operation of the Issuer and its Restricted Subsidiaries, including the Issuer's or its Restricted Subsidiaries' proportionate share of such amount relating to such Parent Entity being a public company;

(D) general corporate, operating and other costs and expenses (including, without limitation, expenses related to the maintenance of corporate or other existence and auditing or other accounting or tax reporting matters) and, following the first public offering of the common stock of any Parent Entity after the Issue Date, listing fees and other costs and expenses attributable to being a public company, of any Parent Entity;

(E) fees and expenses related to any equity or debt offering, financing transaction, acquisitions, divestitures, investments or other non-ordinary course transaction (whether or not successful) of such Parent Entity; *provided* that any such acquisition or investment was, in the good faith judgment of the Issuer, intended to be for the benefit of the Issuer;

(F) amounts (including fees and expenses) that would otherwise be permitted to be paid directly by the Issuer pursuant to Section 10.13 (except transactions described in Section 10.13(b)(2));

(G) cash payments in lieu of issuing fractional shares in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Equity Interests of the Issuer or any Parent Entity;

(H) any Restricted Payments permitted by Section 10.10(b)(4); and

(I) to finance any Investment that would otherwise be permitted to be made pursuant to this Section 10.10 if made by the Issuer; *provided*, that (A) such Restricted Payment shall be made substantially concurrently with the closing of such Investment, (B) such Parent Entity shall, immediately following the closing thereof, cause (1) all property acquired (whether assets or Equity Interests but not including any loans or advances made pursuant to clause (15) or (16) of the definition of "Permitted Investments") to be contributed to the capital of the Issuer or one of its Restricted Subsidiaries (which contribution is not an Excluded Contribution) or (2) the Person formed or acquired to merge into, or amalgamate or consolidate with, the Issuer or one of its Restricted Subsidiaries (to the extent not prohibited by Article Eight) in order to consummate such Investment, (C) to

the extent constituting an Investment, such Investment shall be deemed to be made by the Issuer or such Restricted Subsidiary pursuant to another provision of this Section 10.10 or pursuant to the definition of Permitted Investments and (D) any property received by the Issuer or a Restricted Subsidiary will not increase amounts available for Restricted Payments pursuant to Section 10.10(a)(3);

(14) the redemption, purchase, repurchase, defeasance, or other acquisition or retirement of Equity Interests of the Issuer or any Restricted Subsidiary deemed to occur in connection with paying cash in lieu of fractional shares of such Equity Interests in connection with a share dividend, distribution, share split, reverse share split, merger, consolidation, amalgamation or other business combination of the Issuer or any Restricted Subsidiary, in each case, permitted under this Indenture;

(15) the distribution, by dividend or otherwise, or other transfer or disposition of shares of Capital Stock of, or Indebtedness owed to the Issuer or a Restricted Subsidiary by, Unrestricted Subsidiaries (other than Unrestricted Subsidiaries, the primary assets of which are cash and/or Cash Equivalents);

(16) any Restricted Payment; *provided* that on a pro forma basis after giving effect to such Restricted Payment and the incurrence of any Indebtedness the proceeds of which are used to make such Restricted Payment, the Consolidated Total Debt Ratio of the Issuer for the Applicable Measurement Period would be equal to or less than 4.00 to 1.00; *provided*, however, that at the time of, and after giving effect to, any Restricted Payment permitted under this clause (16), no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof;

(17) payments or distributions to satisfy dissenters' or appraisal rights and the settlement of any claims or actions (whether actual, contingent or potential) with respect thereto, pursuant to or in connection with a consolidation, amalgamation, merger or transfer of assets that complies with Article Eight;

(18) distributions or payments of Receivables Fees and purchases of receivables in connection with any Permitted Receivables Financing or any repurchase obligation in connection therewith;

(19) any prepayment, redemption, purchase, repurchase, defeasance, discharge or other acquisition or retirement of Subordinated Indebtedness consisting of Acquired Indebtedness; and

(20) mandatory redemptions of Disqualified Stock.

For purposes of determining compliance with this Section 10.10, in the event that a proposed Restricted Payment or Permitted Investment (or a portion thereof) meets the criteria of more than one of the categories of Restricted Payments described in the preceding clauses (1) through (20) of Section 10.10(b) above and/or is entitled to be made pursuant to Section 10.10(a) and/or one or more of the clauses contained in the definition of "Permitted Investments," the Issuer shall be entitled to divide or classify (or later divide, classify or reclassify in whole or in part in its sole discretion) such Restricted Payment or Permitted Investment (or a portion thereof) among such clauses (1) through (20) of Section 10.10(b) and/or Section 10.10(a) and/or one or more of the clauses contained in the definition of "Permitted Investments," in a manner that otherwise complies with this Section 10.10.

The amount of all Restricted Payments (other than cash) will be the fair market value on the date of the Restricted Payment of the assets or securities proposed to be transferred or issued by the Issuer or any Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment.

(c) As of the Issue Date, all of the Issuer's Subsidiaries will be Restricted Subsidiaries. The Issuer shall not permit any Unrestricted Subsidiary to become a Restricted Subsidiary except pursuant to the penultimate sentence of the definition of "Unrestricted Subsidiary." For purposes of designating any Restricted Subsidiary as an Unrestricted Subsidiary, all outstanding Investments by the Issuer and its Restricted Subsidiaries in the Subsidiary so designated shall be deemed to be Restricted Payments or Permitted Investments in an amount determined as set forth in the definition of "Investments." Such designation shall be permitted only if a Restricted Payment or Permitted Investment in such amount would be permitted at such time, whether pursuant to this Section 10.10 or pursuant to the definition of "Permitted Investments," and if such Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. Unrestricted Subsidiaries will not be subject to any of the restrictive covenants set forth in this Indenture and will not guarantee the Notes.

SECTION 10.11. Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock.

(a) The Issuer will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise (collectively, "*incur*" and collectively, an "*incurrence*") with respect to any Indebtedness (including Acquired Indebtedness) and the Issuer will not issue any shares of Disqualified Stock and will not permit any Restricted Subsidiary to issue any shares of Disqualified Stock or any Restricted Subsidiary that is not a Guarantor to issue Preferred Stock; *provided*, *however*, that the Issuer may incur Indebtedness (including Acquired Indebtedness) and issue shares of Disqualified Stock, and any of its Restricted Subsidiaries may incur Indebtedness (including Acquired Indebtedness), and issue shares of Disqualified Stock or Preferred Stock, if either (x) the Fixed Charge Coverage Ratio of the Issuer for the Applicable Measurement Period would have been at least 2.00 to 1.00 or (y) the Consolidated Total Debt Ratio of the Issuer for the Applicable Measurement Period would have been equal to or less than 5.50 to 1.00 in each case, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom), as if the additional Indebtedness had been incurred, or the Disqualified Stock or Preferred Stock had been issued, as the case may be, and the application of proceeds therefrom had occurred at the beginning of the Applicable Measurement Period; *provided*, *further*, that Restricted Subsidiaries that are not Guarantors may incur Indebtedness or issue Disqualified Stock or Preferred Stock if, after giving pro forma effect to such incurrence or issuance (including a pro forma application of the net proceeds therefrom), no more than an aggregate of the greater of (x) $150.0 million and (y) 42.5% of Consolidated EBITDA of the Issuer and its Restricted Subsidiaries as of the end of the Applicable Measurement Period of Indebtedness or Disqualified Stock or Preferred Stock of Restricted Subsidiaries that are not Guarantors incurred pursuant to this paragraph, would be outstanding at such time.

(b) The foregoing limitations shall not apply to:

(1) the incurrence of Indebtedness under the Credit Facilities by the Issuer or any of its Restricted Subsidiaries and the issuance and creation of letters of credit and bankers' acceptances thereunder (with letters of credit and bankers' acceptances being deemed to have a principal amount equal to the face amount thereof), up to an aggregate principal amount then outstanding not to exceed the sum of (a) $1,175.0 million plus (b) the greater of (x) $360.0 million and (y) 100% of Consolidated EBITDA of the Issuer and its Restricted Subsidiaries for the Applicable Measurement Period plus (c) an additional amount if, after

giving pro forma effect to the incurrence of such additional amount and the application of the proceeds therefrom, the Consolidated Secured Debt Ratio of the Issuer for the Applicable Measurement Period would be no greater than 4.00 to 1.00; *provided* that for purposes of determining the amount that may be incurred under this clause (1)(c), all Indebtedness incurred under this clause (1)(c) shall be deemed to be included in clause (1) of the definition of "Consolidated Secured Debt Ratio";

(2) the incurrence by the Issuer and any Guarantor of Indebtedness represented by the Notes (including any Note Guarantee thereof) (other than any Additional Notes, if any, or Note Guarantees with respect thereto);

(3) Indebtedness of the Issuer and its Restricted Subsidiaries in existence on the Issue Date (other than Indebtedness described in clauses (1) and (2) of this Section 10.11(b));

(4) Indebtedness (including Capitalized Lease Obligations and Purchase Money Obligations), Disqualified Stock and Preferred Stock incurred by the Issuer or any of its Restricted Subsidiaries, to finance the purchase, lease, expansion, construction, development, replacement, maintenance, upgrade, installation, replacement, repair or improvement of property (real or personal), equipment or any other asset (including through the purchase of Capital Stock of any Person owning such property, equipment or other assets); *provided* that the aggregate amount of Indebtedness, Disqualified Stock and Preferred Stock incurred or issued and outstanding pursuant to this clause (4), when aggregated with all outstanding Indebtedness under clause (13) of this Section 10.11(b) incurred to refinance Indebtedness initially incurred in reliance on this clause (4), does not at the time of such incurrence exceed the greater of (x) $125.0 million and (y) 35.0% of Consolidated EBITDA of the Issuer and its Restricted Subsidiaries as of the end of the Applicable Measurement Period;

(5) (i) Indebtedness incurred by the Issuer or any of its Restricted Subsidiaries constituting reimbursement obligations with respect to letters of credit, bankers' acceptances, bank guarantees, warehouse receipts or similar instruments issued or entered into, or relating to obligations or liabilities incurred, in the ordinary course of business or consistent with past practice, including letters of credit in favor of suppliers or trade creditors or in respect of workers' compensation claims, performance, completion or surety bonds, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other Indebtedness with respect to obligations regarding workers' compensation claims, performance, completion or surety bonds, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance and (ii) Indebtedness of the Issuer or any of its Restricted Subsidiaries as an account party in respect of letters of credit, bank guarantees or similar instruments or other guarantee obligations in favor of suppliers, customers, franchisees, lessors, licensees, sublicensees, distribution partners or other creditors issued in the ordinary course of business or consistent with past practice;

(6) Indebtedness arising from agreements of the Issuer or any of its Restricted Subsidiaries providing for indemnification, adjustment of purchase price, earn-out or similar obligations, in each case, incurred or assumed in connection with the acquisition or disposition of any business, assets or a Subsidiary or Investment, other than guarantees of Indebtedness incurred by any Person acquiring all or any portion of such business, assets or a Subsidiary for the purpose of financing such acquisition;

(7) Indebtedness of the Issuer to a Restricted Subsidiary; *provided* that any such Indebtedness owing to a Restricted Subsidiary that is not a Guarantor, excluding any Indebtedness in respect of accounts payable incurred in connection with goods and services rendered in the ordinary course of business or consistent with past practice (and not in connection with the borrowing of money), is expressly subordinated in right of payment (but only to the extent permitted by applicable law and to the extent such subordination does not result in material adverse tax consequences) to the Notes; *provided*, *further*, that any subsequent issuance or transfer of any Capital Stock or any other event which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness (except to another Restricted Subsidiary or any pledge of such Indebtedness constituting a Permitted Lien (but not foreclosure thereon)) shall be deemed, in each case, to be an incurrence of such Indebtedness (to the extent such Indebtedness is then outstanding) not permitted by this clause;

(8) Indebtedness of a Restricted Subsidiary owing to the Issuer or another Restricted Subsidiary; *provided* that if a Guarantor incurs such Indebtedness owing to a Restricted Subsidiary that is not a Guarantor, excluding any Indebtedness in respect of accounts payable incurred in connection with goods and services rendered in the ordinary course of business or consistent with past practice (and not in connection with the borrowing of money), such Indebtedness is expressly subordinated in right of payment (but only to the extent permitted by applicable law and to the extent such subordination does not result in material adverse tax consequences) to the Note Guarantee of such Guarantor; *provided*, *further*, that any subsequent transfer of any such Indebtedness (except to the Issuer or another Restricted Subsidiary or any pledge of such Indebtedness constituting a Permitted Lien (but not foreclosure thereon)) shall be deemed, in each case, to be an incurrence of such Indebtedness (to the extent such Indebtedness is then outstanding) not permitted by this clause;

(9) shares of Preferred Stock or Disqualified Stock of a Restricted Subsidiary issued to the Issuer or another Restricted Subsidiary; *provided* that any subsequent issuance or transfer of any Capital Stock or any other event that results in any Restricted Subsidiary that holds such Preferred Stock or Disqualified Stock ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such shares of Preferred Stock or Disqualified Stock (except to the Issuer or another Restricted Subsidiary or any pledge of such Capital Stock constituting a Permitted Lien (but not foreclosure thereon)) shall be deemed in each case to be an issuance of such shares of Preferred Stock or Disqualified Stock, as applicable (to the extent such Preferred Stock or Disqualified Stock is then outstanding), not permitted by this clause;

(10) Hedging Obligations (excluding Hedging Obligations entered into for speculative purposes);

(11) obligations in respect of self-insurance and obligations in respect of stays, customs, performance, indemnity, bid, appeal, judgment, surety and other similar bonds or instruments and performance, bankers' acceptance facilities and completion guarantees and similar obligations provided by the Issuer or any of its Restricted Subsidiaries or obligations in respect of letters of credit, bank guarantees or similar instruments related thereto, in each case, in the ordinary course of business or consistent with past practice;

(12) (i) Indebtedness, Disqualified Stock or Preferred Stock of the Issuer or any of its Restricted Subsidiaries in an aggregate principal amount or liquidation preference of up to 100.0% of the net cash proceeds received by the Issuer since immediately after the Issue Date from the issue or sale of Equity Interests of the Issuer or cash contributed to the capital of the Issuer (in each case, other than Excluded Contributions or proceeds of Disqualified Stock or sales of Equity Interests to the Issuer or any of its Subsidiaries) as determined in accordance with clauses (3)(B) and (3)(C) of Section 10.10(a) to the extent such net cash proceeds or cash have not been applied pursuant to such clauses to make Restricted Payments or to make other Investments, payments or exchanges pursuant to Section 10.10(b) or to make Permitted Investments (other than Permitted Investments specified in clauses (1), (2) and (3) of the definition thereof) and (ii) Indebtedness, Disqualified Stock or Preferred Stock of the Issuer or any Restricted Subsidiary not otherwise permitted hereunder in an aggregate principal amount or liquidation preference, which when aggregated with the principal amount and liquidation preference of all other outstanding Indebtedness, Disqualified Stock and Preferred Stock incurred or issued pursuant to this clause (12)(ii) and all outstanding Indebtedness under clause (13) of this Section 10.11(b) incurred to refinance Indebtedness initially incurred in reliance on this clause (12)(ii), does not exceed, at the time of such incurrence or issuance, the greater of (x) $180.0 million and (y) 50.0% of Consolidated EBITDA of the Issuer and its Restricted Subsidiaries as of the end of the Applicable Measurement Period (it being understood that any Indebtedness, Disqualified Stock or Preferred Stock incurred pursuant to this clause (12)(ii) shall cease to be deemed incurred or outstanding for purposes of this clause (12)(ii) but shall be deemed incurred pursuant to Section 10.11(a) from and after the first date on which the Issuer or such Restricted Subsidiary could have incurred or issued such Indebtedness, Disqualified Stock or Preferred Stock under Section 10.11(a) without reliance on this clause (12)(ii));

(13) the incurrence or issuance by the Issuer or any of its Restricted Subsidiaries of Indebtedness, Disqualified Stock or Preferred Stock which serves to refund, refinance, replace, renew, extend or defease (collectively, "*refinance*" with "*refinances*," "*refinanced*" and "*refinancing*" having a correlative meaning) any Indebtedness, Disqualified Stock or Preferred Stock incurred or issued as permitted under Section 10.11(a) and clauses (2), (3), (4) and (12) above of this Section 10.11(b), this clause (13) and clauses (14), (19) and (28) below of this Section 10.11(b) or any Indebtedness, Disqualified Stock or Preferred Stock incurred or issued to so refinance such Indebtedness, Disqualified Stock or Preferred Stock including additional Indebtedness, Disqualified Stock or Preferred Stock incurred to pay accrued but unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including upfront fees, original issue discount or similar fees) in connection with such refinancing (the "*Refinancing Indebtedness*") on or prior to its respective maturity; *provided*, *however*, that such Refinancing Indebtedness:

(A) has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is incurred which is not less than the remaining Weighted Average Life to Maturity of the Indebtedness, Disqualified Stock or Preferred Stock being refinanced (or requires no or nominal payments in cash (other than interest payments) prior to the date that is 91 days after the maturity date of the Notes),

(B) to the extent such Refinancing Indebtedness refinances (i) Indebtedness subordinated in right of payment to the Notes or any Note Guarantee thereof, such Refinancing Indebtedness is subordinated in right of payment to the Notes or such Note Guarantee at least to the same extent as the Indebtedness being refinanced or (ii) Disqualified Stock or Preferred Stock, such Refinancing Indebtedness must be Disqualified Stock or Preferred Stock, respectively, and

(C) shall not include:

(i) Indebtedness, Disqualified Stock or Preferred Stock of a Subsidiary of the Issuer that is not a Guarantor that refinances Indebtedness, Disqualified Stock or Preferred Stock of the Issuer;

(ii) Indebtedness, Disqualified Stock or Preferred Stock of a Subsidiary of the Issuer that is not a Guarantor that refinances Indebtedness, Disqualified Stock or Preferred Stock of a Guarantor;

(iii) Indebtedness, Disqualified Stock or Preferred Stock of the Issuer or a Restricted Subsidiary that refinances Indebtedness, Disqualified Stock or Preferred Stock of an Unrestricted Subsidiary; or

(D) in the case of Refinancing Indebtedness that is secured by Liens on the Collateral that are equal in priority (without regard to control of remedies) with the Secured Notes Obligations, (A) such Refinancing Indebtedness ranks equal or junior in right of payment with the Secured Notes Obligations and is secured by Liens on the Collateral on an equal or junior priority basis with respect to the Secured Notes Obligations or is unsecured; provided that any such Refinancing Indebtedness that is (1) secured by Liens on the Collateral ranking on an equal priority basis (but without regard to control of remedies) with the Secured Notes Obligations shall be subject to the Equal Priority Intercreditor Agreement (or such other intercreditor agreement having substantially similar terms as the Equal Priority Intercreditor Agreement, taken as a whole) or (2) secured by Liens on the Collateral ranking junior in priority to the Liens on the Collateral securing the Secured Notes Obligations shall be subject to a Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement and (B) if the Refinancing Indebtedness is secured, it is not secured by any assets other than the Collateral;

(14) Indebtedness, Disqualified Stock or Preferred Stock of (x) the Issuer or a Restricted Subsidiary incurred or issued to finance an acquisition or Investment or (y) Persons that are acquired by the Issuer or a Restricted Subsidiary or merged into, amalgamated with or consolidated with the Issuer or a Restricted Subsidiary in accordance with the terms of this Indenture (including designating an Unrestricted Subsidiary as a Restricted Subsidiary); *provided* that, after giving pro forma effect to such Investment, acquisition, merger, amalgamation or consolidation, either:

(A) (i) the Issuer would be permitted to incur at least $1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 10.11(a), or (ii) the Fixed Charge Coverage Ratio of the Issuer for the Applicable Measurement Period is equal to or greater than immediately prior to such Investment, acquisition, merger, amalgamation or consolidation; or

(B) (i) the Issuer would be permitted to incur at least $1.00 of additional Indebtedness pursuant to the Consolidated Total Debt Ratio test set forth in Section 10.11(a) or (ii) the Consolidated Total Debt Ratio of the Issuer for the Applicable Measurement Period is equal to or less than immediately prior to such Investment, acquisition, merger, amalgamation or consolidation;

(15) (a) Cash Management Obligations and (b) Indebtedness in respect of netting services, automatic clearing house arrangements, employees' credit or purchase cards, overdraft protections and similar arrangements and other Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds (including Indebtedness owed on a short term basis of no longer than 30 days to banks and other financial institutions incurred in the ordinary course of business or consistent with past practice of the Issuer and its Restricted Subsidiaries with such banks or financial institutions that arises in connection with ordinary banking arrangements to manage cash balances of the Issuer and its Restricted Subsidiaries);

(16) Indebtedness of the Issuer or any of its Restricted Subsidiaries supported by a letter of credit, bank guarantee or other instrument issued pursuant to any Credit Facility in a principal amount not in excess of the face amount of such letter of credit, bank guarantee or such other instrument;

(17) (a) any guarantee by the Issuer or any Restricted Subsidiary of Indebtedness or other obligations of the Issuer or any Restricted Subsidiary so long as the incurrence of such Indebtedness incurred by the Issuer or such Restricted Subsidiary is permitted under the terms of this Indenture, or

(A) any co-issuance by the Issuer or any Restricted Subsidiary of Indebtedness of the Issuer or any Restricted Subsidiary permitted under the terms of this Indenture;

(18) [reserved];

(19) Indebtedness, Disqualified Stock or Preferred Stock of the Issuer or any of its Restricted Subsidiaries incurred or issued to finance or assumed in connection with an acquisition or Investment in an aggregate principal amount, together with all other outstanding Indebtedness, Disqualified Stock or Preferred Stock issued under this clause (19) and any outstanding Indebtedness under clause (13) of this Section 10.11(b) incurred to refinance Indebtedness initially incurred in reliance on this clause (19), not to exceed, at the time of incurrence of such Indebtedness or issuance of Disqualified Stock or Preferred Stock, the greater of (x) $180.0 million and (y) 50% of Consolidated EBITDA of the Issuer and its Restricted Subsidiaries as of the end of the Applicable Measurement Period (it being understood that any Indebtedness, Disqualified Stock or Preferred Stock incurred pursuant to this clause (19) shall cease to be deemed incurred or outstanding for purposes of this clause (19) but shall be deemed incurred pursuant to Section 10.11(a) and after the first date on which the Issuer or such Restricted Subsidiary could have incurred such Indebtedness or issued such Disqualified Stock or Preferred Stock under Section 10.11(a) without reliance on this clause (19));

(20) Indebtedness of the Issuer or any of its Restricted Subsidiaries consisting of (a) the financing of insurance premiums or (b) take-or-pay obligations contained in supply arrangements in each case, incurred in the ordinary course of business or consistent with past practice;

(21) Indebtedness consisting of Indebtedness issued by the Issuer or any of its Restricted Subsidiaries to future, current or former officers, directors, employees, managers or consultants thereof (or their respective Controlled Investment Affiliates or Immediate Family Members, or any Permitted Transferee thereof) of the Issuer, any Restricted Subsidiary or any Parent Entity, in each case to finance the purchase or redemption of Equity Interests of the Issuer or any Parent Entity to the extent described in Section 10.10(b)(4);

(22) Indebtedness incurred by the Issuer or any of its Restricted Subsidiaries to the extent that the net proceeds thereof are promptly deposited with the Trustee to satisfy and discharge the Notes or exercise the Issuer's legal defeasance or covenant defeasance option as described in Article Thirteen, in each case, in accordance with this Indenture;

(23) [reserved];

(24) [reserved];

(25) Indebtedness attributable to (but not incurred to finance) the exercise of appraisal rights and the settlement of any claims or actions (whether actual, contingent or potential) with respect thereto, in each case with respect to any acquisition (by merger, consolidation or amalgamation or otherwise) permitted under this Indenture;

(26) Indebtedness representing deferred compensation to employees, directors, consultants, contract providers, independent contractors and other service providers of any Parent Entity, the Issuer or any Restricted Subsidiary incurred in the ordinary course of business or consistent with past practice;

(27) Indebtedness consisting of obligations under deferred compensation or any other similar arrangements incurred in connection with any Investment or any acquisition (by merger, consolidation or amalgamation or otherwise) permitted under this Indenture;

(28) (A) Indebtedness of any Restricted Subsidiary that is not a Guarantor; *provided* that the aggregate principal amount of Indebtedness of which the primary obligor or a guarantor is a Restricted Subsidiary that is not a Guarantor outstanding in reliance on this clause (28) shall not exceed, at the time of incurrence thereof and together with any other outstanding Indebtedness incurred under this clause (28) and any outstanding Indebtedness under clause (13) incurred to refinance Indebtedness initially incurred in reliance on this clause (28), the greater of (x) $50.0 million and (y) 15.0% of Consolidated EBITDA of the Issuer and Restricted Subsidiaries as of the end of the Applicable Measurement Period;

(29) to the extent constituting Indebtedness, (i) customer deposits and advance payments (including progress premiums) received in the ordinary course of business from customers or (ii) obligations to pay, in each case, for goods and services purchased or sold in the ordinary course of business or consistent with past practice;

(30) unfunded pension fund and other employee benefits plan obligations and liabilities incurred in the ordinary course of business or consistent with past practice;

(31) [reserved];

(32) guarantee obligations of the Issuer or any of its Restricted Subsidiaries in connection with the provision of credit card payment processing services; and

(33) all premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in clauses (1) through (32) of this Section 10.11(b).

(c) For purposes of determining compliance with this Section 10.11,

(1) in the event that an item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) meets the criteria of more than one of the categories of permitted Indebtedness, Disqualified Stock or Preferred Stock described in clauses (1) through (33) of Section 10.11(b) or is entitled to be incurred pursuant to Section 10.11(a), the Issuer, in its sole discretion, may divide, classify or reclassify all or a portion of such item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) in any manner that complies with this Section 10.11 and will only be required to include the amount and type of such Indebtedness, Disqualified Stock or Preferred Stock (or portion thereof) in one of the above clauses under Section 10.11(b) or under Section 10.11(a); *provided* that all Indebtedness outstanding under the Senior Credit Facilities (after giving effect to the Refinancing Transactions) on the Issue Date will be treated as incurred on the Issue Date under Section 10.11(b)(1);

(2) at the time of incurrence, the Issuer shall be entitled to divide and classify an item of Indebtedness in more than one of the types of Indebtedness described in Sections 10.11(a) and (b) above; and

(3) the principal amount of Indebtedness outstanding under any clause of this Section 10.11 shall be determined after giving effect to the application of proceeds of any such Indebtedness to refinance any such other Indebtedness.

Accrual of interest or dividends, the accretion of accreted value, the accretion or amortization of original issue discount and the payment of interest or dividends in the form of additional Indebtedness, Disqualified Stock or Preferred Stock will not be deemed to be an incurrence of Indebtedness, Disqualified Stock or Preferred Stock for purposes of this Section 10.11. If Indebtedness originally incurred in reliance upon a percentage of Consolidated EBITDA or the Consolidated Secured Debt Ratio under clause (1) of Section 10.11(b) is being refinanced under clause (1) of Section 10.11(b) and such refinancing would cause the maximum amount of Indebtedness thereunder to be exceeded at such time, then such refinancing will nevertheless be permitted thereunder and such additional Indebtedness will be deemed to have been incurred, and permitted to be incurred, under such clause (1) so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of Indebtedness being refinanced plus amounts permitted by the next sentence. Any Indebtedness incurred to refinance Indebtedness incurred pursuant to clauses (1) and (12)(ii) of Section 10.11(b) shall be permitted to include additional Indebtedness, Disqualified Stock or Preferred Stock incurred to pay accrued but unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including upfront fees, original issue discount or similar fees) incurred in connection with such refinancing.

(d) For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated by the Issuer based on the relevant currency exchange rate in effect on the date such Indebtedness was deemed to be incurred, in the case of term debt, or first committed, in the case of revolving credit debt, for purposes of this Section 10.11; provided that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced, plus the aggregate amount of accrued but unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including upfront fees, original issue discount or similar fees) incurred in connection with such refinancing.

(e) The principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated by the Issuer based on the currency exchange rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such refinancing.

(f) This Indenture shall not treat (1) unsecured Indebtedness as subordinated or junior to Secured Indebtedness merely because such Indebtedness is unsecured or (2) Indebtedness as subordinated or junior to any other Indebtedness solely because such Indebtedness has a junior priority with respect to shared collateral or because it is guaranteed by other obligors.

SECTION 10.12. Liens.

(a) The Issuer shall not, and shall not permit any Guarantor to, directly or indirectly, create, incur, assume or suffer to exist any Lien (each, a "*Subject Lien*") that secures Obligations under any Indebtedness on any asset or property of the Issuer or any Guarantor, unless:

(1) in the case of Subject Liens on any Collateral, (i) such Subject Lien expressly has Junior Lien Priority on the Collateral relative to the Notes and the Note Guarantees or (ii) such Subject Lien is a Permitted Lien; and

(2) in the case of any Subject Lien on any asset or property that is not Collateral, (i) the Notes (or the related Note Guarantee in the case of Liens on assets or property of a Guarantor) are equally and ratably secured with (or, at the Issuer's option or if such Subject Lien secures Subordinated Indebtedness, on a senior basis to) the Obligations secured by such Subject Lien until such time as such Obligations are no longer secured by such Subject Lien or (ii) such Subject Lien is a Permitted Lien.

(b) Any Lien created for the benefit of the Holders pursuant to clause (2) of the preceding paragraph shall provide by its terms that such Lien shall be automatically and unconditionally released and discharged upon the release and discharge of the Subject Lien that gave rise to the obligation to secure the Notes. In addition, in the event that a Subject Lien is or becomes a Permitted Lien, the Issuer may, at its option and without consent from any Holder, elect to release and discharge any Lien created for the benefit of the Holders pursuant to the preceding paragraph in respect of such Subject Lien.

(c) With respect to any Lien securing Indebtedness that was permitted to secure such Indebtedness at the time of the incurrence of such Indebtedness, such Lien shall also be permitted to secure any Increased Amount of such Indebtedness. The "Increased Amount" of any Indebtedness shall mean any increase in the amount of such Indebtedness in connection with any accrual of interest, the accretion of accreted value, the amortization of original issue discount, the payment of interest in the form of additional Indebtedness with the same terms, accretion of original issue discount or liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies or increases in the value of property securing Indebtedness.

SECTION 10.13. Limitations on Transactions with Affiliates.

(a) The Issuer shall not, and shall not permit any of its Restricted Subsidiaries to, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Issuer (each of the foregoing, an "*Affiliate Transaction*") involving aggregate payments or consideration in excess of the greater of (i) $25.0 million and (ii) 7.5% of Consolidated EBITDA of the Issuer and the Restricted Subsidiaries, unless:

(1) such Affiliate Transaction is on terms, taken as a whole, that are not materially less favorable to the Issuer or the relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Issuer or such Restricted Subsidiary with an unrelated Person on an arm's-length basis or, if in the good faith judgment of the Issuer, no comparable transaction is available with which to compare such Affiliate Transaction, such Affiliate Transaction is otherwise fair to the Issuer or such Restricted Subsidiary from a financial point of view and when such transaction is taken in its entirety; and

(2) the Issuer delivers to the Trustee with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate payments or consideration in excess of $50.0 million, a resolution adopted by a majority of the members of the Board of the Issuer and a majority of the disinterested members of the Board of the Issuer approving such Affiliate Transaction and an Officer's Certificate certifying that such Affiliate Transaction complies with clause (1) above.

(b) The foregoing provisions shall not apply to the following:

(1) (a) transactions between or among the Issuer and a Restricted Subsidiary or between or among Restricted Subsidiaries or, in any case, any entity that becomes a Restricted Subsidiary as a result of such transaction and (b) any merger, consolidation or amalgamation of the Issuer with or into any Parent Entity; *provided* that such Parent Entity shall have no material liabilities and no material assets other than cash, Cash Equivalents and the Capital Stock of the Issuer or another Parent Entity and such merger, consolidation or amalgamation is otherwise consummated in compliance with the terms of this Indenture and effected for a *bona fide* business purpose;

(2) Restricted Payments permitted by Section 10.10 (other than pursuant to Section 10.10(b)(13)(F)) and the definition of "Permitted Investments;"

(3) the payment of indemnification and other similar amounts to the Investors and reimbursement of expenses of the Investors, in each case, approved by, or pursuant to arrangements approved by the Board of the Issuer;

(4) the payment of reasonable and customary fees and compensation paid to, and indemnities and reimbursements and employment and severance arrangements provided to or on behalf of, or for the benefit of, former, current or future officers, directors, employees, managers or consultants (or their respective Controlled Investment Affiliates or Immediate Family Members, or any Permitted Transferee thereof) of the Issuer, any Restricted Subsidiary or any Parent Entity;

(5) transactions in which the Issuer or any of its Restricted Subsidiaries, as the case may be, delivers to the Trustee a letter from an Independent Financial Advisor stating that such transaction is fair to the Issuer or such Restricted Subsidiary from a financial point of view or stating that the terms are not materially less favorable, when taken as a whole, to the Issuer or the relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Issuer or such Restricted Subsidiary with an unrelated Person on an arm's length basis;

(6) any agreement or arrangement as in effect or contemplated as of the Issue Date (other than any agreement or arrangement of the type described in clause (3) above), or any amendment thereto (so long as any such amendment is not materially disadvantageous in the good faith judgment of the Board of the Issuer or the senior management of the Issuer to the Holders when taken as a whole as compared to the applicable agreement as in effect on the Issue Date);

(7) the existence of, or the performance by the Issuer or any of its Restricted Subsidiaries of its obligations under the terms of, any stockholders agreement or the equivalent (including any registration rights agreement or purchase agreement related thereto) to which it (or any Parent Entity) is a party as of the Issue Date and any similar agreements which it (or any Parent Entity) may enter into thereafter; *provided*, *however*, that the existence of, or the performance by the Issuer or any of its Restricted Subsidiaries (or such Parent Entity) of obligations under any future amendment to any such existing agreement or under any similar agreement entered into after the Issue Date shall only be permitted by this clause (7) to the extent that the terms of any such amendment or new agreement are not otherwise materially disadvantageous in the good faith judgment of the Board of the Issuer or the senior management of the Issuer to the Holders when taken as a whole as compared to the applicable agreement as in effect on the Issue Date;

(8) [reserved];

(9) transactions with customers, clients, suppliers, contractors, joint venture partners or purchasers or sellers of goods or services that are Affiliates, in each case in the ordinary course of business or that are consistent with past practice and otherwise in compliance with the terms of this Indenture which are fair to the Issuer and its Restricted Subsidiaries, in the reasonable determination of the Board or the senior management of the Issuer, or are on terms, taken as a whole, that are not materially less favorable as might reasonably have been obtained at such time from an unaffiliated party;

(10) the issuance or transfer of (a) Equity Interests (other than Disqualified Stock) of the Issuer and the granting and performing of customary registration rights to any Parent Entity or to any Permitted Holder or to any former, current or future director, officer, manager, employee or consultant (or their respective Controlled Investments Affiliates or Immediate Family Members, or any Permitted Transferee thereof) of the Issuer or any of its Subsidiaries or any Parent Entity and (b) directors' qualifying shares and shares issued to foreign nationals as required by applicable law;

(11) transactions in connection with Permitted Receivables Financings;

(12) payments by the Issuer or any of its Restricted Subsidiaries made for any financial advisory, financing, underwriting or placement services or in respect of other investment banking activities, including, without limitation, in connection with acquisitions or divestitures which payments are approved by the Board of the Issuer or the senior management of the Issuer in good faith;

(13) payments, loans, advances or guarantees (or cancellation of loans, advances or guarantees) to future, current or former employees, directors, officers, managers or consultants (or their respective Controlled Investment Affiliates or Immediate Family Members, or any Permitted Transferee thereof) of the Issuer, any of its Subsidiaries or any Parent Entity and employment agreements, stock option plans and other compensatory or severance arrangements (and any successor plans thereto) and any supplemental executive retirement benefit plans or similar arrangements with any such employees, directors, officers, managers or consultants (or their respective Controlled Investment Affiliates or Immediate Family Members, or any Permitted Transferee thereof) (including salary or guaranteed payments and bonuses) which, in each case, are approved by the Board of the Issuer or the senior management of the Issuer in good faith;

(14) (A) investments by Permitted Holders in securities or loans of the Issuer or any of its Restricted Subsidiaries (and any payment of out-of-pocket expenses incurred by such Permitted Holders in connection therewith) so long as the investment is being offered generally to other investors on the same or more favorable terms, and (B) payments to Permitted Holders in respect of securities or loans of the Issuer or any of its Restricted Subsidiaries contemplated in the foregoing subclause (A) or that were acquired from Persons other than the Issuer and its Restricted Subsidiaries, in each case, in accordance with the terms of such securities or loans;

(15) transactions with a Person that is an Affiliate of the Issuer arising solely because the Issuer or any Restricted Subsidiary owns any Equity Interest in, or controls, such Person;

(16) any lease entered into between the Issuer or any Restricted Subsidiary, on the one hand, and any Affiliate of the Issuer, on the other hand, which is approved by the Board of the Issuer or the senior management of the Issuer in good faith;

(17) intellectual property licenses entered into in the ordinary course of business or consistent with past practice;

(18) transactions between the Issuer or any Restricted Subsidiary and any other Person that would constitute an Affiliate Transaction solely because a director of such other Person is also a director of the Issuer or any Parent Entity; *provided*, *however*, that such director abstains from voting as a director of the Issuer or such Parent Entity, as the case may be, on any matter including such other Person;

(19) pledges of Equity Interests of Unrestricted Subsidiaries;

(20) payments by the Issuer and any Parent Entity and their respective Subsidiaries pursuant to tax sharing agreements among the Issuer and any Parent Entity and their respective Subsidiaries on customary terms; provided that such payments shall not exceed the excess (if any) of the amount of taxes that the Issuer and its Subsidiaries would have paid on a stand-alone basis over the amount of such taxes actually paid by the Issuer and its Subsidiaries directly to governmental authorities; and

(21) payments to and from, and transactions with, any joint ventures entered into in the ordinary course of business or consistent with past practice (including, without limitation, any cash management activities related thereto).

SECTION 10.14. Limitations on Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries. The Issuer shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or consensual restriction on the ability of any Restricted Subsidiary that is not a Guarantor to:

(a) (x) pay dividends or make any other distributions to the Issuer or any of its Restricted Subsidiaries that is a Guarantor on its Capital Stock or with respect to any other interest or participation in, or measured by, its profits, or (y) pay any Indebtedness owed to the Issuer or any of its Restricted Subsidiaries that is a Guarantor;

(b) make loans or advances to the Issuer or any of its Restricted Subsidiaries that is a Guarantor; or

(c) sell, lease or transfer any of its properties or assets to the Issuer or any of its Restricted Subsidiaries that is a Guarantor, except (in each case) for such encumbrances or restrictions existing under or by reason of:

(1) contractual encumbrances or restrictions in effect on the Issue Date, including, pursuant to the Senior Credit Facilities and, in each case, related documentation and related Hedging Obligations;

(2) this Indenture, the Notes and the Note Guarantees;

(3) Purchase Money Obligations for property acquired in the ordinary course of business and Capitalized Lease Obligations that impose restrictions of the nature discussed in clause (c) above on the property so acquired;

(4) applicable law or any applicable rule, regulation or order;

(5) any agreement or other instrument of a Person, or relating to Indebtedness or Capital Stock of a Person, which Person is acquired by or merged, consolidated or amalgamated with or into the Issuer or any Restricted Subsidiary, or any other transaction entered into in connection with any such acquisition, merger, consolidation or amalgamation, in existence at the time of such acquisition or at the time it merges, consolidates or amalgamates with or into the Issuer or any Restricted Subsidiary or assumed in connection with the acquisition of assets from such Person (but, in each case, not created in contemplation thereof), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person and its Subsidiaries, or the property or assets of the Person and its Subsidiaries, so acquired;

(6) contracts, including sale-leaseback agreements, for the sale or disposition of assets, including customary restrictions with respect to a Subsidiary of the Issuer pursuant to an agreement that has been entered into for the sale or disposition of Capital Stock or assets of such Subsidiary;

(7) Secured Indebtedness permitted to be incurred pursuant to Sections 10.11 and 10.12 that limit the right of the debtor to dispose of the assets securing such Indebtedness;

(8) restrictions on cash, Cash Equivalents or other deposits under contracts or customary net worth provisions contained in real property leases, in each case, entered into in the ordinary course of business or consistent with past practice and restrictions on cash, Cash Equivalents or other deposits permitted under Section 10.12 or arising in connection with any Permitted Liens;

(9) other Indebtedness, Disqualified Stock or Preferred Stock of Foreign Subsidiaries or Restricted Subsidiaries that are not Guarantors that is permitted to be incurred or issued subsequent to the Issue Date pursuant to Section 10.11;

(10) customary provisions in joint venture agreements or arrangements and other similar agreements or arrangements relating solely to such joint venture;

(11) restrictions or conditions contained in any trading, netting, operating, construction, service, supply, purchase, sale or other agreement to which the Issuer or any of its Restricted Subsidiaries is a party entered into in the ordinary course of business or consistent with past practice; *provided* that such agreement prohibits the encumbrance of solely the property or assets of the Issuer or such Restricted Subsidiary that are the subject to such agreement, the payment rights arising thereunder or the proceeds thereof and does not extend to any other asset or property of the Issuer or such Restricted Subsidiary or the assets or property of another Restricted Subsidiary;

(12) any encumbrance or restriction with respect to a Subsidiary which was previously an Unrestricted Subsidiary which encumbrance or restriction exists pursuant to or by reason of an agreement that such Subsidiary is a party to or entered into before the date on which such Subsidiary became or is redesignated as a Restricted Subsidiary; *provided* that such agreement was not entered into in anticipation of an Unrestricted Subsidiary becoming or being redesignated as a Restricted Subsidiary and any such encumbrance or restriction does not extend to any assets or property of the Issuer or any other Restricted Subsidiary other than the assets and property of such Subsidiary and its Subsidiaries;

(13) other Indebtedness, Disqualified Stock or Preferred Stock permitted to be incurred subsequent to the Issue Date pursuant to Section 10.11; *provided* that, (A) in the good faith judgment of the Issuer, such incurrence will not materially impair the Issuer's ability to make payments under the Notes when due, (B) the encumbrances and restrictions in such Indebtedness, Disqualified Stock or Preferred Stock apply only during the continuance of a default in respect of a payment or financial maintenance covenant relating to such Indebtedness or (C) the encumbrances and restrictions in such Indebtedness, Disqualified Stock or Preferred Stock either are not materially more restrictive taken as a whole than those contained in the Senior Credit Facilities or the Notes as in effect on the Issue Date or generally represent market terms at the time of incurrence or issuance and are imposed solely on such Restricted Subsidiary and its Subsidiaries;

(14) restrictions contained in any documentation relating to any Permitted Receivables Financing that, in the good faith judgment of the Issuer, are necessary or advisable to effect such Permitted Receivables Financing;

(15) customary provisions in leases, subleases, licenses, sublicenses and other contracts restricting the assignment or other transfer thereof (or the assets subject thereto), including with respect to intellectual property; and

(16) any encumbrances or restrictions of the type referred to in clauses (a), (b) and (c) of this Section 10.14 imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (1) through (15) above; *provided* that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Issuer, not materially more restrictive with respect to such encumbrance and other restrictions taken as a whole than those prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

(d) For purposes of determining compliance with this Section 10.14, (1) the priority of any Preferred Stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on common stock shall not be deemed a restriction on the ability to make distributions on Capital Stock and (2) the subordination of loans and advances made to the Issuer or a Restricted Subsidiary to other Indebtedness incurred by the Issuer or such Restricted Subsidiary shall not be deemed a restriction on the ability to make loans or advances.

SECTION 10.15. Additional Note Guarantees. The Issuer will not permit any of its (i) Restricted Subsidiaries (other than the Guarantors) to guarantee the payment of any Indebtedness under the Senior Credit Facilities or (ii) Domestic Subsidiaries that are Wholly-Owned Restricted Subsidiaries (other than the Guarantors and any Receivables Subsidiary) to guarantee any Indebtedness of the Issuer or any Guarantor in an aggregate principal amount in excess of $100.0 million, unless such Subsidiary within 60 days executes and delivers a supplemental indenture to this Indenture providing for a Note Guarantee by such Subsidiary and joinders to the Equal Priority Intercreditor Agreement, any Junior Priority Intercreditor Agreement or Acceptable Junior Intercreditor Agreement and applicable Security Documents or new intercreditor agreements and Security Documents, together with any filings and agreements, to the extent required.

Each Note Guarantee shall be released in accordance with the provisions of Article Twelve.

SECTION 10.16. Change of Control.

(a) If a Change of Control occurs after the Issue Date with respect to the Notes, unless, prior to or concurrently with the time the Issuer is required to make a Change of Control Offer, the Issuer has mailed or delivered, or otherwise sent through electronic transmission, a redemption notice with respect to all the Outstanding Notes as described under Section 4.01 or Section 11.06, the Issuer shall make an offer to purchase all of the Notes pursuant to the offer described below (the "*Change of Control Offer*") at a price in cash (the "*Change of Control Payment*") equal to 101% of the aggregate principal amount thereof (or such higher amount as the Issuer may determine) plus accrued and unpaid interest, if any, to, but excluding, the date of purchase, subject to the right of Holders of record of the Notes on the relevant record date to receive interest due on the relevant Interest Payment Date falling on or prior to the Change of Control Payment Date (as defined below). Within 30 days following any Change of Control, the Issuer shall send notice of such Change of Control Offer by first-class mail, with a copy to the Trustee, to each Holder of Notes to the address of such Holder appearing in the Note Register or otherwise deliver in accordance with the procedures of the Depository, with the following information:

(1) that a Change of Control Offer is being made pursuant to this Section 10.16 and that all Notes properly tendered pursuant to such Change of Control Offer shall be accepted for payment by the Issuer;

(2) the purchase price and the purchase date, which will be no earlier than 20 Business Days nor later than 60 days from the date such notice is sent (the "*Change of Control Payment Date*"); provided that the Change of Control Payment Date may be delayed, in the Issuer's discretion, until such time (including more than 60 days after the date such notice is sent) as any or all such conditions referred to in clause (8) below shall be satisfied or waived;

(3) that any Note not properly tendered shall remain Outstanding and continue to accrue interest;

(4) that unless the Issuer defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer shall cease to accrue interest on the Change of Control Payment Date;

(5) that Holders electing to have any Notes purchased pursuant to a Change of Control Offer will be required to surrender such Notes, with the form entitled "Option of Holder to Elect Purchase" on the reverse of such Notes completed or otherwise in accordance with the procedures of the Depository, to the Paying Agent specified in the notice at the address specified in the notice prior to the close of business on the third Business Day preceding the Change of Control Payment Date;

(6) that Holders will be entitled to withdraw their tendered Notes and their election to require the Issuer to purchase such Notes; *provided* that the Paying Agent receives, not later than the close of business on the second Business Day prior to the expiration time of the Change of Control Offer, an electronic transmission (in PDF), a facsimile transmission or letter or otherwise in accordance with the procedures of the Depository setting forth the name of the Holder of the Notes, the principal amount of the Notes tendered for purchase, and a statement that such Holder is withdrawing its tendered Notes and its election to have such Notes purchased;

(7) that if less than all of such Holder's Notes are tendered for purchase, such Holder will be issued new Notes (or, in the case of Global Notes, such Notes shall be reduced by such amount of Notes that the Holder has tendered) and such new Notes will be equal in principal amount to the unpurchased portion of the Notes surrendered (the unpurchased portion of the Notes must be equal to $2,000 or an integral multiple of $1,000 in excess thereof);

(8) if such notice is sent prior to the occurrence of a Change of Control, stating that the Change of Control Offer is conditional on the occurrence of such Change of Control or such other conditions specified therein and shall describe each such condition, and, if applicable, shall state that, in the Issuer's discretion, the Change of Control Payment Date may be delayed until such time (including more than 60 days after the notice is mailed or delivered) as any or all such conditions shall be satisfied or waived, or that such purchase may not occur and such notice may be rescinded in the event that the Issuer reasonably believes that any or all such conditions (including the occurrence of such Change of Control) will not be satisfied or waived by the Change of Control Payment Date, or by the Change of Control Payment Date as so delayed; and

(9) such other instructions, as determined by the Issuer, consistent with this Section 10.16, that a Holder must follow.

(b) While the Notes are in global form and the Issuer makes an offer to purchase all of the Notes pursuant to the Change of Control Offer, a Holder may exercise its option to elect for the purchase of the Notes through the facilities of the Depository, subject to its rules and regulations.

(c) The Issuer shall comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws or regulations are applicable in connection with the repurchase of Notes pursuant to a Change of Control Offer. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Indenture, the Issuer shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations described in this Indenture by virtue thereof.

(d) On the Change of Control Payment Date, the Issuer shall, to the extent permitted by law,

(1) accept for payment all Notes issued by it or portions thereof properly tendered pursuant to the Change of Control Offer;

(2) deposit with the Paying Agent an amount equal to the aggregate Change of Control Payment in respect of all Notes or portions thereof so tendered; and

(3) deliver, or cause to be delivered, to the Trustee for cancellation the Notes so accepted together with an Officer's Certificate to the Trustee stating that such Notes or portions thereof have been tendered to and purchased by the Issuer.

(e) The Issuer shall not be required to make a Change of Control Offer if a third party approved in writing by the Issuer makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Indenture applicable to a Change of Control Offer made by the Issuer and purchases all Notes validly tendered and not withdrawn under such Change of Control Offer. Notwithstanding anything to the contrary herein, a Change of Control Offer may be made in advance of a Change of Control, conditional upon such Change of Control and such other conditions specified therein, if a definitive agreement is in place for the Change of Control at the time of making of the Change of Control Offer.

(f) If Holders of not less than 90% in aggregate principal amount of the Outstanding Notes validly tender and do not withdraw such Notes in a Change of Control Offer and the Issuer, or any third party approved in writing by the Issuer making a Change of Control Offer in lieu of the Issuer as described above, purchases all of the Notes validly tendered and not withdrawn by such Holders, the Issuer or such third party will have the right, upon not less than 10 days nor more than 60 days' prior notice, given not more than 30 days following such purchase pursuant to the Change of Control Offer described above, to redeem (with respect to the Issuer) or purchase (with respect to a third party) all of the Notes that remain Outstanding following such purchase on a date (the "*Second Change of Control Payment Date*") at a price in cash equal to the Change of Control Payment in respect of the Second Change of Control Payment Date, including, to the extent not included in the Change of Control Payment, accrued and unpaid interest, if any, thereon, to, but excluding, the Second Change of Control Payment Date, subject to the right of Holders of record of Notes on the relevant record date to receive interest due on the relevant Interest Payment Date falling on or prior to the Second Change of Control Payment Date.

(g) The provisions of this Section 10.16 may be waived or modified at any time with the written consent of the Holders of a majority in aggregate principal amount of Outstanding Notes.

SECTION 10.17. Asset Sales.

(a) The Issuer shall not, and shall not permit any Restricted Subsidiary to, consummate, directly or indirectly, an Asset Sale unless:

(1) the Issuer or such Restricted Subsidiary, as the case may be, receives consideration at the time of such Asset Sale at least equal to the fair market value (measured at the time of contractually agreeing to such Asset Sale) of the assets sold or otherwise disposed of; and

(2) except in the case of a Permitted Asset Swap, at least 75% of the consideration (measured at the time of contractually agreeing to such Asset Sale) for such Asset Sale, together with all other Asset Sales since the Issue Date, (on a cumulative basis), received by the Issuer or such Restricted Subsidiary, as the case may be, is in the form of cash or Cash Equivalents.

(b) Within 18 months after the receipt of any Net Proceeds from any Asset Sale (the "*Asset Sale Proceeds Application Period*"), the Issuer or such Restricted Subsidiary, at its option, may apply an amount equal to the Net Proceeds from such Asset Sale,

(1) to the extent the assets or property disposed of in the Asset Sale constituted Collateral, to repay (i) Obligations under the Notes, (ii) Obligations under the Senior Credit Facilities, or (iii) any Additional Equal Priority Obligations, and in each case, in the case of revolving obligations, to correspondingly reduce commitments with respect thereto;

(2) to the extent the assets or property disposed of in the Asset Sale did not constitute Collateral:

(A) (i) to repay (x) Obligations under the Notes, (y) Obligations under the Senior Credit Facilities or (z) any Additional Equal Priority Obligations, and in each case, in the case of revolving obligations, to correspondingly reduce commitments with respect thereto; provided that if the Issuer or any Restricted Subsidiary shall repay any Obligations pursuant to clause (z) above, the Issuer or such Restricted Subsidiary will either (A) reduce the aggregate principal amount of Obligations under the Notes on a ratable basis with any such Obligations under the Additional Equal Priority Obligations repaid pursuant to this clause (b)(2)(A) by, at its option, (x) redeeming Notes as provided under Section 11.01 and/or (y) purchasing Notes through open-market purchases or in privately negotiated transactions (which may be below par) and/or (B) make an offer (in accordance with the provisions set forth below for an Asset Sale Offer) to all Holders to purchase their Notes on a ratable basis with any Obligations under the Additional Equal Priority Obligations repaid pursuant to this clause (b)(2)(A) for no less than 100% of the principal amount thereof plus the amount of accrued and unpaid interest, if any, thereon (which offer shall be deemed to be an Asset Sale Offer for purposes hereof); or

(B) to repay Obligations under any Senior Indebtedness (other than any Senior Indebtedness referred to in clause (2)(A) above), and in the case of revolving obligations, to correspondingly reduce commitments with respect thereto; provided that the Issuer or such Restricted Subsidiary will either (i) reduce the aggregate principal amount of Obligations under the Notes on an equal or ratable basis with any Senior Indebtedness repaid pursuant to this clause (2)(B) by, at its option, (x) redeeming Notes as provided under Section 11.01 and/or (y) purchasing Notes through open-market purchases or in privately

negotiated transactions at market prices (which may be below par) and/or (ii) make an offer (in accordance with the provisions set forth below for an Asset Sale Offer in this Section 10.17 and for no less than 100% of the principal amount thereof, plus the amount of accrued but unpaid interest, if any, thereon) to all Holders to purchase their Notes on an equal or ratable basis with any Senior Indebtedness repaid pursuant to this clause (B) (which offer shall be deemed to be an Asset Sale Offer for purposes hereof);

(3) to invest in the business of the Issuer and its Subsidiaries, including (A) any investment in Additional Assets, (B) making capital expenditures and (C) any investment in any property or other assets that replace the businesses, properties and/or assets that are the subject of such Asset Sale;

(4) to repay Indebtedness of a Restricted Subsidiary that is not a Guarantor, other than Indebtedness owed to the Issuer or another Restricted Subsidiary; or

(5) any combination of the foregoing;

provided that, in the case of clause (3), a binding commitment or letter of intent shall be treated as a permitted application of the Net Proceeds from the date of such commitment or letter of intent so long as the Issuer or such Restricted Subsidiary enters into such commitment or letter of intent with the good faith expectation that such Net Proceeds will be applied to satisfy such commitment or letter of intent within 180 days of the expiration of the Asset Sale Proceeds Application Period (an "*Acceptable Commitment*") and such Net Proceeds are actually applied in such manner within 180 days of the expiration of the Asset Sale Proceeds Application Period (the period from the consummation of the Asset Sale to such date, the "*First Commitment Application Period*"), and, in the event any Acceptable Commitment is later cancelled or terminated for any reason after the expiration of the Asset Sale Proceeds Application Period and before the Net Proceeds are applied in connection therewith, then such Net Proceeds shall constitute Excess Proceeds unless the Issuer or such Restricted Subsidiary reasonably expects to enter into another Acceptable Commitment prior to the expiration of the First Commitment Application Period (a "*Second Commitment*") and such Net Proceeds are actually applied in such manner prior to 180 days from the expiration of the First Commitment Application Period; *provided*, *further*, that if any Second Commitment is later cancelled or terminated for any reason before such Net Proceeds are applied or if such Second Commitment is not entered into prior to the expiration of the First Commitment Application Period, then such Net Proceeds shall constitute Excess Proceeds.

(c) To the extent Net Proceeds from an Asset Sale exceed amounts that are invested or applied as provided and within the time period set forth in the preceding paragraph, such excess amount will be deemed to constitute "*Excess Proceeds*." No later than 20 Business Days after the date that the aggregate amount of Excess Proceeds exceeds $50.0 million, the Issuer shall make an offer to all Holders and, if required by the terms of any other Equal Priority Obligations, to the holders of such Equal Priority Obligations (an "*Asset Sale Offer*"), to purchase the maximum aggregate principal amount (or accreted value, as applicable) of the Notes and such Equal Priority Obligations, as applicable, that is, in the case of the Notes only, equal to $1,000 or an integral multiple thereof that may be purchased out of the Excess Proceeds at an offer price, in the case of the Notes only, in cash in an amount equal to 100% of the principal amount thereof, plus accrued and unpaid interest, if any, to, but excluding, the date fixed for the repurchase of such Notes pursuant to such offer, in accordance with the procedures set forth in this Indenture and, if applicable, the other documents governing the applicable Equal Priority Obligations. The Issuer shall commence an Asset Sale Offer by sending the notice to the Holders, with a copy to the Trustee, which notice shall advise the Holders of the Asset Sale Offer and shall contain all information

relating to the procedures for tendering Notes in the Asset Sale Offer and withdrawing Notes therefrom, in each case consistent with this Section 10.17 and determined by the Issuer to be appropriate. The Issuer may satisfy the foregoing obligation with respect to such Net Proceeds from an Asset Sale by making an Asset Sale Offer in advance of being required to do so by this Indenture (an "*Advance Offer*") with respect to all or part of the available Net Proceeds (the "*Advance Portion*").

(d) To the extent that the aggregate principal amount (or accreted value, as applicable) of Notes and, if applicable, Equal Priority Obligations, tendered pursuant to an Asset Sale Offer is less than the Excess Proceeds (or, in the case of an Advance Offer, the Advance Portion), the Issuer may use any remaining Excess Proceeds (or, in the case of an Advance Offer, the Advance Portion) in any manner not prohibited by this Indenture. If the aggregate principal amount (or accreted value, as applicable) of Notes or the Equal Priority Obligations tendered pursuant to an Asset Sale Offer exceeds the amount of Excess Proceeds (or, in the case of an Advance Offer, the Advance Portion), the Notes shall be selected pro rata (subject to applicable Depository procedures as to Global Notes) and the Issuer or the representative of such Equal Priority Obligations shall select such Equal Priority Obligations to be purchased or repaid on a pro rata basis based on the accreted value or principal amount of the Notes and such Equal Priority Obligations tendered, with adjustments as necessary so that no Notes or Equal Priority Obligations, as the case may be, will be repurchased in an unauthorized denomination; provided, that no Notes of $2,000 or less shall be repurchased in part. Upon completion of any such Asset Sale Offer, the amount of Excess Proceeds shall be reset at zero (regardless of whether there are any remaining Excess Proceeds upon such completion), and in the case of an Advance Offer, the Advance Portion shall be excluded in subsequent calculations of Excess Proceeds.

(e) Pending the final application of an amount equal to the Net Proceeds pursuant to this Section 10.17, the holder of such Net Proceeds may apply any Net Proceeds temporarily to reduce Indebtedness outstanding under a revolving credit facility (including under the Senior Credit Facilities) or otherwise invest such Net Proceeds in any manner not prohibited by this Indenture.

(f) For purposes of Section 10.17(a)(2) only, the following shall be deemed to be cash or Cash Equivalents:

(1) the greater of the principal amount and the carrying value of any liabilities (as reflected on the most recent balance sheet of the Issuer or such Restricted Subsidiary or in the footnotes thereto, or if incurred, accrued or increased subsequent to the date of such balance sheet, such liabilities that would have been reflected on the balance sheet of the Issuer or such Restricted Subsidiary or in the footnotes thereto if such incurrence, accrual or increase had taken place on or prior to the date of such balance sheet, as determined in good faith by the Issuer) of the Issuer or such Restricted Subsidiary, other than liabilities that are by their terms subordinated to the Notes or the Note Guarantees, that are assumed by the transferee of any such assets (or are otherwise extinguished in connection with the transactions relating to such Asset Sale) pursuant to a written agreement which releases or indemnifies the Issuer or such Restricted Subsidiary from such liabilities;

(2) any securities, notes or other obligations or assets received by the Issuer or such Restricted Subsidiary from such transferee that are converted or reasonably expected by the Issuer acting in good faith to be converted by the Issuer or such Restricted Subsidiary into cash or Cash Equivalents, or by their terms are required to be satisfied for cash or Cash Equivalents (to the extent of the cash or Cash Equivalents received), in each case, within 180 days following the closing of such Asset Sale; and

(3) any Designated Non-cash Consideration received by the Issuer or such Restricted Subsidiary in such Asset Sale having an aggregate fair market value (with the fair market value of such item of Designated Non-cash Consideration being measured at the time of contractually agreeing to the related Asset Sale), taken together with all other Designated Non-cash Consideration received pursuant to this clause (3) that is at that time outstanding, not to exceed the greater of (x) $75.0 million and (y) 20% of Consolidated EBITDA of the Issuer and its Restricted Subsidiaries as of the end of the Applicable Measurement Period at the time of contractually agreeing to such Asset Sale.

(g) The Issuer shall comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws or regulations are applicable in connection with the repurchase of the Notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with this Section 10.17, the Issuer shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under this Section 10.17 by virtue of such compliance.

(h) The provisions of this Section 10.17 may be waived or modified at any time with the written consent of the Holders of a majority in aggregate principal amount of Outstanding Notes.

SECTION 10.18. After-Acquired Collateral; Further Assurances.

(a) From and after the Issue Date, and subject to the applicable limitations and exceptions set forth in the Security Documents and this Indenture (including with respect to Excluded Assets), if the Issuer or any Guarantor creates, or acquires any security interest upon any property or asset (other than Excluded Assets) that would constitute Collateral (including a security interest in any such property or asset granted as security for the Senior Credit Facility Obligations), the Issuer and each of the Guarantors shall as promptly as possible grant a first-priority perfected security interest (subject to Permitted Liens) upon any such Collateral, as security for the Secured Notes Obligations.

(b) The Issuer and the Guarantors shall, at their sole expense, duly execute and deliver, or cause to be duly executed and delivered, such further agreements, documents, instruments, financing and continuation statements and amendments thereto as may be necessary to confirm that the Notes Collateral Agent holds, for the benefit of itself, the Holders and the Trustee, duly created, enforceable and perfected (to the extent required by the Security Documents) Liens in the Collateral, subject to Permitted Liens. As necessary, or upon request of the Notes Collateral Agent, the Issuer and the Guarantors shall, at their sole expense, execute any and all further documents, financing statements, agreements and instruments, and take all further action (including filing Uniform Commercial Code and other financing statements, mortgages and deeds of trust) as may be necessary to effectuate the provisions and purposes of the Security Documents, to the extent permitted by applicable law.

SECTION 10.19. Suspension of Covenants.

(a) If on any date following the Issue Date: (1) the Notes have Investment Grade Ratings from two of three Rating Agencies and (2) no Default or Event of Default has occurred and is continuing under this Indenture (the occurrence of the events described in the foregoing clauses (1) and (2) being collectively referred to as a "*Covenant Suspension Event*"), then beginning on such date and continuing until the Reversion Date (as defined below), the Issuer and its Restricted Subsidiaries shall not be subject to the following provisions of this Indenture (collectively, the "*Suspended Covenants*"):

(A) clause (a)(4) of Section 8.01;

(B) the first paragraph of Section 8.02;

(C) Section 10.10;

(D) Section 10.11;

(E) Section 10.13;

(F) Section 10.14;

(G) Section 10.15; and

(H) Section 10.17.

In the event that the Issuer and its Restricted Subsidiaries are not subject to the Suspended Covenants under this Indenture for any period of time as a result of the foregoing, and on any subsequent date (the "*Reversion Date*") the Notes, whether by reason of the withdrawal or downgrade of ratings, do not have an Investment Grade Rating from at least two of the three Rating Agencies, then the Issuer and its Restricted Subsidiaries will thereafter again be subject to the Suspended Covenants under this Indenture with respect to future events.

The period of time between (and including) the date of the Covenant Suspension Event and the Reversion Date (but excluding the Reversion Date) is referred to in this description as the "*Suspension Period*." The Note Guarantees of the Guarantors shall be suspended during the Suspension Period. Additionally, upon the occurrence of a Covenant Suspension Event, the amount of Excess Proceeds from any Asset Sale shall be reset at zero.

(b) In the event of any such reinstatement, no action taken or omitted to be taken by the Issuer or any of its Restricted Subsidiaries prior to such reinstatement shall give rise to a Default or Event of Default with respect to the Suspended Covenants under this Indenture with respect to the Notes; *provided* that (1) with respect to Restricted Payments made on or after the Reversion Date and the capacity to make Restricted Payments, the amount of Restricted Payments made and the capacity to make Restricted Payments will be calculated as though the provisions of Section 10.10 had been in effect prior to, but not during, the Suspension Period (including with respect to a Limited Condition Transaction entered into during the Suspension Period), (2) all Indebtedness incurred, or Disqualified Stock or Preferred Stock issued, during the Suspension Period (or deemed incurred or issued in connection with a Limited Condition Transaction entered into during the Suspension Period) shall be classified to have been incurred or issued pursuant to Section 10.11(b)(3), (3) no Subsidiaries shall be designated as Unrestricted Subsidiaries during any Suspension Period unless such designation would have complied with Section 10.10 as if such Section 10.10 was in effect for the purposes of designating Unrestricted Subsidiaries from the Issue Date to the date of such designation, (4) any Affiliate Transaction entered into on or after the Reversion Date pursuant to an agreement entered into during any Suspension Period shall be deemed to be permitted pursuant to clause (6) of Section 10.13(b), and (5) any encumbrance or restriction on the ability of any Restricted Subsidiary that is not a Guarantor to take any action described in clauses (a) through (c) of Section 10.14 that becomes effective during any Suspension Period shall be deemed to be permitted pursuant to Section 10.14(1). Upon any Reversion Date, the obligation to grant Note Guarantees pursuant to Section 10.15 will be reinstated and such Reversion Date will be deemed to be the date on which any guaranteed Indebtedness was incurred for purposes of such Section 10.15, such that a Restricted Subsidiary shall have 60 days from such Reversion Date to provide a Note Guarantee that would have been required to have been provided during the Suspension Period had such Section 10.15 not been suspended.

During the Suspension Period, the Issuer and its Restricted Subsidiaries shall be entitled to incur Liens permitted under Section 10.12 (including, without limitation, Permitted Liens). To the extent such covenant and any Permitted Liens refer to one or more Suspended Covenants, such covenant or definition shall be interpreted as though such applicable Suspended Covenant(s) continued to be applicable during the Suspension Period (but solely for purposes of Section 10.12 and the "Permitted Liens" definition and for no other provision of this Indenture).

(c) Notwithstanding that the Suspended Covenants may be reinstated after the Reversion Date, (1) no Default, Event of Default or breach of any kind shall be deemed to exist or have occurred under this Indenture, the Notes or the Note Guarantees with respect to the Suspended Covenants, and none of the Issuer or any of its Subsidiaries shall bear any liability for any actions taken or events occurring during the Suspension Period, or any actions taken at any time pursuant to any contractual obligation entered into or arising during any Suspension Period, in each case as a result of a failure to comply with the Suspended Covenants during the Suspension Period (or, upon termination of the Suspension Period or after that time, as a result of any action taken or event that occurred during the Suspension Period), and (2) following a Reversion Date, the Issuer and each Restricted Subsidiary shall be permitted, without causing a Default or Event of Default, to honor, comply with or otherwise perform any contractual commitments or obligations arising during any Suspension Period and to consummate the transactions contemplated thereby.

(d) The Issuer shall deliver an Officer's Certificate to the Trustee notifying the Trustee of the commencement of any Suspension Period or the occurrence of any Reversion Date promptly after such commencement or occurrence, as the case may be, and the Trustee shall have no obligation to monitor or determine whether a Suspension Period or a Reversion Date has occurred or exists.

ARTICLE ELEVEN

REDEMPTION OF NOTES

SECTION 11.01. Right of Redemption. At any time prior to April 15, 2024, the Issuer may, at its option and on one or more occasions, redeem all or a part of the Notes, upon notice as set forth in Section 11.06, at a Redemption Price equal to 100% of the principal amount of the Notes redeemed plus the Applicable Premium as of, and accrued and unpaid interest, if any, to, but excluding, the date of redemption (any applicable date of redemption hereunder, the "*Redemption Date*"), subject to the right of Holders of record of the Notes on the relevant Regular Record Date to receive interest due on the relevant Interest Payment Date falling on or prior to the Redemption Date.

On and after April 15, 2024, the Issuer may, at its option and on one or more occasions, redeem the Notes, in whole or in part, upon notice as set forth in Section 11.06, at the Redemption Prices (expressed as percentages of principal amount of Notes to be redeemed) set forth below, plus accrued and unpaid interest thereon, if any, to, but excluding, the applicable Redemption Date, subject to the right of Holders of record of the Notes on the relevant Regular Record Date to receive interest due on the relevant Interest Payment Date falling on or prior to the Redemption Date, if redeemed during the twelve-month period beginning on December 1 of each of the years indicated below:

Year	Percentage
2024	102.250%
2025	101.125%
2026 and thereafter	100.000%

In addition, prior to April 15, 2024, the Issuer may, at its option, upon notice as set forth in Section 11.06, on one or more occasions redeem up to 40% of the aggregate principal amount of Notes (including Additional Notes) issued under this Indenture at a Redemption Price (as calculated by the Issuer) equal to (i) 104.500% of the aggregate principal amount thereof, with an amount equal to or less than the net cash proceeds from one or more Equity Offerings to the extent such net cash proceeds are received by or contributed to the Issuer, plus (ii) accrued and unpaid interest thereon, if any, to, but excluding, the applicable Redemption Date, subject to the right of Holders of record of the Notes on the relevant Regular Record Date to receive interest due on the relevant Interest Payment Date falling on or prior to the Redemption Date; *provided* that (a) at least 50% of the sum of the aggregate principal amount of the Notes originally issued under this Indenture on the Issue Date (but excluding any Additional Notes issued under this Indenture after the Issue Date) remains Outstanding immediately after the occurrence of each such redemption and (b) each such redemption occurs within 180 days of the date of closing of such Equity Offering.

In addition, during any twelve-month period commencing on or after the Issue Date and ending prior to April 15, 2024, the Issuer may redeem in each twelve-month period up to 10% of the aggregate principal amount of the Notes (including Additional Notes) issued under this Indenture, upon notice as described under Article Eleven at a purchase price equal to 103.000% of the aggregate principal amount of the Notes to be redeemed, plus accrued and unpaid interest thereon, if any, to, but excluding, the applicable Redemption Date, subject to the right of Holders of record of Notes on the relevant record date to receive interest due on the relevant interest payment date falling on or prior to the Redemption Date.

In connection with any tender offer for the Notes, if Holders of not less than 90% in aggregate principal amount of the Outstanding Notes validly tender and do not withdraw such Notes in such tender offer and the Issuer, or any third party approved in writing by the Issuer making such tender offer in lieu of the Issuer, purchases all of the Notes validly tendered and not withdrawn by such Holders, the Issuer or such third party will have the right upon not less than 10 nor more than 60 days' prior notice (except that such notice may be delivered or mailed more than 60 days prior to the Redemption Date or purchase date if the notice is subject to one or more conditions precedent as described under Article Eleven), given not more than 30 days following such purchase date, to redeem (with respect to the Issuer) or purchase (with respect to a third party) all Notes that remain Outstanding following such purchase at a price equal to the price paid to each other Holder in such tender offer (which may be less than par and shall exclude any early tender premium or similar premium and any accrued and unpaid interest paid to any Holder in such tender offer) plus accrued and unpaid interest, if any, thereon, to, but excluding, the Redemption Date or purchase date, subject to the right of Holders of record of the Notes on the relevant record date to receive interest due on the relevant Interest Payment Date falling on or prior to the Redemption Date or purchase date.

SECTION 11.02. [Reserved].

SECTION 11.03. Applicability of Article. Redemption of Notes at the election of the Issuer or otherwise, as permitted or required by any provision of this Indenture, shall be made in accordance with such provision and this Article.

SECTION 11.04. Election to Redeem; Notice to Trustee. In case of any redemption at the election of the Issuer, the Issuer shall, at least two Business Days before notice of redemption is required to be sent to Holders pursuant to Section 11.06 hereof (unless a shorter notice shall be satisfactory to the Trustee), notify the Trustee of such Redemption Date and of the principal amount of Notes to be redeemed and setting forth the section of this Indenture pursuant to which the redemption shall occur; *provided* that no Opinion of Counsel pursuant to Section 1.03 or otherwise shall be required in connection with the delivery of such notice of redemption or redemption.

SECTION 11.05. Selection by Trustee of Notes to Be Redeemed. With respect to any partial redemption or purchase of Notes made pursuant to this Indenture, selection of the Notes for redemption or purchase will be made on a pro rata basis or by lot; *provided* that if the Notes are represented by Global Notes, interests in the Notes shall be selected for redemption or purchase by the Depository in accordance with its standard procedures therefor; *provided*, *further*, that no Notes of less than $2,000 can be redeemed or repurchased in part. Such Notes to be redeemed or purchased shall be selected, unless otherwise provided herein, at least 10 days but except as set forth in Section 11.06, not more than 60 days prior to the Redemption Date from the Outstanding Notes not previously called for redemption or purchase.

If any Note is to be redeemed or purchased in part only, any notice of redemption or offers to purchase that relates to such Note shall state the portion of the principal amount thereof that has been or is to be redeemed or purchased.

The Trustee shall promptly notify the Issuer in writing of the Notes selected for redemption or purchase and, in the case of any Note selected for partial redemption or purchase, the principal amount thereof to be redeemed or purchased. Provisions of this Indenture that apply to Notes called for redemption or purchase also apply to portions of Notes called for redemption or purchase.

With respect to Notes represented by certificated notes, if any Notes are to be purchased or redeemed in part only, the Issuer will issue a new Note in a principal amount equal to the unredeemed or unpurchased portion of the original Note in the name of the Holder thereof upon cancellation of the original Note; *provided* that the new Notes will only be issued in denominations of $2,000 and any integral multiple of $1,000 in excess thereof.

SECTION 11.06. Notice of Redemption or Purchase. The Issuer shall deliver electronically or mail by first-class mail, postage prepaid, notices of redemption at least 10 days, but except as set forth in this Section 11.06, not more than 60 days before the purchase date or Redemption Date to each Holder at such Holder's registered address or otherwise in accordance with the procedures of the Depository, except that redemption notices may be delivered or mailed more than 60 days prior to a Redemption Date if the notice is issued in connection with Article Four or Article Thirteen of this Indenture.

All notices of redemption shall state:

(1) the Redemption Date;

(2) the Redemption Price, or if not then ascertainable, the manner of calculation thereof;

(3) in the case of certificated Notes, if less than all Outstanding Notes are to be redeemed, the identification (and, in the case of a partial redemption, the principal amounts) of the particular Notes to be redeemed;

(4) if any Note is to be redeemed or purchased in part only, the portion of the principal amount of that Note that is to be redeemed or purchased and that, after the Redemption Date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed or unpurchased portion of the original Note representing the same

indebtedness to the extent not redeemed or purchased will be issued in the name of the Holder thereof upon cancellation of the original Note; provided that the new Notes will be only issued in denominations of $2,000 and any integral multiple of $1,000 in excess thereof;

(5) that on the Redemption Date, the Redemption Price (and accrued interest, if any, to but not including the Redemption Date payable as provided in Section 11.08) will become due and payable upon each such Note, or the portion thereof, to be redeemed, and that interest thereon will cease to accrue on and after the Redemption Date,

(6) any condition precedent to the redemption;

(7) the place or places where such Notes are to be surrendered for payment of the Redemption Price and accrued but unpaid interest, if any,

(8) the name and address of the Paying Agent,

(9) that Notes called for redemption must be surrendered to the Paying Agent to collect the Redemption Price,

(10) the CUSIP, ISIN or "Common Code" number and that no representation is made as to the accuracy or correctness of the CUSIP, ISIN or "Common Code" number, if any, listed in such notice or printed on the Notes, and

(11) the paragraph of the Notes and/or Section of this Indenture pursuant to which the Notes are to be redeemed.

Notice of redemption of Notes to be redeemed at the election of the Issuer shall be given by the Issuer or, at the Issuer's request and provision of such notice information two Business Days (unless a shorter notice shall be agreed to by the Trustee) prior to the date notice is to be given, by the Trustee in the name and at the expense of the Issuer.

Any redemption of, or offer to purchase, the Notes may, at the Issuer's discretion, be subject to the satisfaction of one or more conditions precedent, including, but not limited to, the completion or occurrence of an Equity Offering, other transaction (or series of related transactions) or an event that constitutes a Change of Control. If a redemption or purchase is subject to the satisfaction of one or more conditions precedent, notice of such redemption or purchase may be given in connection with the related Equity Offering, transaction or event, as the case may be, and prior to the completion or the occurrence thereof. Such notice shall describe each such condition, and if applicable, shall state that, in the Issuer's discretion, the redemption or purchase date may be delayed until such time (including more than 60 days after the date the notice of redemption or offer to purchase was mailed or delivered, including by electronic transmission) as any or all such conditions shall be satisfied or waived, or such redemption or purchase may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied or waived, or at any time in the Issuer's discretion if the Issuer reasonably believes that any or all of such conditions will not be satisfied or waived, in each case by the redemption or purchase date or by the redemption or purchase date as so delayed. In addition, the Issuer may provide in any notice of redemption or offer to purchase the Notes that payment of the redemption or purchase price and performance of the Issuer's obligations with respect to such redemption or offer to purchase may be performed by another Person.

If any such condition precedent has not been satisfied, the Issuer shall provide written notice to the Trustee thereof. Upon receipt, the Trustee shall provide such notice to each Holder of the Notes in the same manner in which the notice of redemption was given.

SECTION 11.07. Deposit of Redemption or Purchase Price. On or prior to any Redemption Date or purchase date, the Issuer shall deposit with the Trustee or with a Paying Agent (or, if the Issuer is acting as its own Paying Agent, segregate and hold in trust as provided in Section 10.03) an amount of money sufficient to pay the Redemption Price or purchase price of, and accrued but unpaid interest, if any, on, all the Notes which are to be redeemed or purchased on such Redemption Date or purchase date. Either the Trustee or the Paying Agent shall promptly return to the Issuer any money deposited with either the Trustee or the Paying Agent by the Issuer in excess of the amounts necessary to pay the Redemption Price or purchase price of, and accrued and unpaid interest on, all Notes which are to be redeemed or purchased.

SECTION 11.08. Notes Payable on Redemption Date or Purchase Date. Notice of redemption or purchase having been given as aforesaid, the Notes so to be redeemed or purchased shall, on the Redemption Date or purchase date, become due and payable, unless such redemption or purchase is conditioned on the happening of a future event, at the Redemption Price or purchase price therein specified (together with accrued but unpaid interest, if any, to the Redemption Date or purchase date), and from and after such Redemption Date or purchase date such Notes shall cease to bear interest (unless the Issuer shall default in the payment of the Redemption Price or purchase price and accrued but unpaid interest, if any). Upon surrender of any such Note for redemption or purchase in accordance with said notice, such Note shall be paid by the Issuer at the Redemption Price or purchase price, together with accrued but unpaid interest, if any, to, but excluding, the Redemption Date or purchase date and such Notes shall be canceled by the Trustee; *provided*, that installments of interest whose Stated Maturity is on or prior to the Redemption Date or purchase date shall be payable to the Holders of such Notes, or one or more Predecessor Notes, registered as such at the close of business on the relevant Regular Record Dates according to their terms and the provisions of Section 3.07.

If any Note called for redemption shall not be so paid upon surrender thereof for redemption, the principal (and premium, if any) shall, until paid, bear interest from the Redemption Date at the rate borne by the Notes.

SECTION 11.09. Notes Redeemed in Part. Any Note which is to be redeemed only in part (pursuant to the provisions of this Article) shall be surrendered at an office or agency of the Issuer maintained for such purpose pursuant to Section 10.02 (with, if the Issuer or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Issuer and the Trustee duly executed by, the Holder thereof or such Holder's attorney duly authorized in writing), and the Issuer shall execute, and the Trustee shall authenticate and deliver to the Holder of such Note without service charge, a new Note or Notes, of any authorized denomination as requested by such Holder, in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Note so surrendered; provided that the new Notes will only be issued in denominations of $2,000 and any integral multiple of $1,000 in excess thereof.

SECTION 11.10. Mandatory Redemption; Open Market Purchases. The Issuer is not required to make any mandatory redemption or sinking fund payments with respect to the Notes. In addition, other than as required under Sections 10.16 and 10.17, the Issuer shall not be required to offer to repurchase or redeem or otherwise modify the terms of any of the Notes upon a Change of Control of, or other events involving, the Issuer or any of its Subsidiaries which may adversely affect the creditworthiness of the Notes. The Issuer and its Affiliates may at any time and from time to time purchase Notes in the open market in privately negotiated transactions or otherwise.

ARTICLE TWELVE

GUARANTEES

SECTION 12.01. Note Guarantees. Subject to this Article Twelve, each Guarantor jointly and severally, unconditionally and irrevocably guarantees the Notes and obligations of the Issuer hereunder and thereunder, and guarantees to each Holder of a Note authenticated and delivered by the Trustee, and to the Trustee for itself and on behalf of such Holder, that: (1) the principal of (and premium, if any) and interest on the Notes will be paid in full when due, whether at Stated Maturity, by acceleration or otherwise (including the amount that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Law), together with interest on the overdue principal, if any, and interest on any overdue interest, to the extent lawful, and all other obligations of the Issuer to the Holders or the Trustee hereunder or thereunder will be paid in full or performed, all in accordance with the terms hereof and thereof; and (2) in case of any extension of time of payment or renewal of any Notes or of any such other obligations, the same shall be paid in full when due or performed in accordance with the terms of the extension or renewal, whether at Stated Maturity, by acceleration or otherwise, subject, however, in the case of clauses (1) and (2) above, to the limitation set forth in Section 12.04 hereof.

Each Guarantor hereby agrees (to the extent permitted by applicable law) that its obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder with respect to any provisions hereof or thereof, any release of any other Guarantor, the recovery of any judgment against the Issuer, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a Guarantor.

Each Guarantor hereby waives (to the extent permitted by law) the benefits of diligence, presentment, demand for payment, filing of claims with a court in the event of insolvency or bankruptcy of the Issuer, any right to require a proceeding first against the Issuer or any other Person, protest, notice and all demands whatsoever and covenants that the Note Guarantee of such Guarantor shall not be discharged as to any Note except by complete performance of the obligations contained in such Note, this Indenture and such Note Guarantee. Each Guarantor acknowledges that the Note Guarantee is a guarantee of payment, performance and compliance when due and not of collection. Each of the Guarantors hereby agrees that, in the event of a default in payment of principal (or premium, if any) or interest on such Note or in payment of any other obligations hereunder, whether at its Stated Maturity, by acceleration, purchase or otherwise, legal proceedings may be instituted by the Trustee on behalf of itself or on behalf of, or by, the Holder of such Note, subject to the terms and conditions set forth in this Indenture, directly against each of the Guarantors to enforce such Guarantor's Note Guarantee without first proceeding against the Issuer or any other Guarantor. Each Guarantor agrees that if, after the occurrence and during the continuance of an Event of Default, the Trustee or any of the Holders are prevented by applicable law from exercising their respective rights to accelerate the Maturity of the Notes, to collect interest on the Notes, or to enforce or exercise any other right or remedy with respect to the Notes, such Guarantor shall pay to the Trustee for the account of the Holder, upon demand therefor, the amount that would otherwise have been due and payable had such rights and remedies been permitted to be exercised by the Trustee or any of the Holders.

If any Holder or the Trustee is required by any court or otherwise to return to the Issuer or any Guarantor, or any custodian, trustee, liquidator or other similar official acting in relation to either the Issuer or any Guarantor, any amount paid by any of them to the Trustee or such Holder, the Note Guarantee of each of the Guarantors, to the extent theretofore discharged, shall be reinstated in full force and effect. Each Guarantor further agrees that, as between each Guarantor, on the one hand, and the

Holders and the Trustee on the other hand, (1) subject to this Article Twelve, the Maturity of the obligations guaranteed hereby may be accelerated as provided in Article Five hereof for the purposes of the Note Guarantee of such Guarantor notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (2) in the event of any acceleration of such obligation as provided in Article Five hereof, such obligations (whether or not due and payable) shall forthwith become due and payable by each Guarantor for the purpose of the Note Guarantee of such Guarantor.

Each Note Guarantee shall remain in full force and effect and continue to be effective should any petition be filed by or against the Issuer for liquidation, reorganization, should the Issuer become insolvent or make an assignment for the benefit of creditors or should a receiver or trustee be appointed for all or any significant part of the Issuer's assets, and shall, to the fullest extent permitted by law, continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Notes are, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee on the Notes, whether as a "voidable preference", "fraudulent transfer" or otherwise, all as though such payment or performance had not been made. In the event that any payment or any part thereof, is rescinded, reduced, restored or returned, the Notes shall, to the fullest extent permitted by law, be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

SECTION 12.02. Severability. In case any provision of any Note Guarantee shall be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby to the extent permitted by applicable law.

SECTION 12.03. Restricted Subsidiaries. The Issuer shall cause any Restricted Subsidiary required to guarantee payment of the Notes pursuant to the terms and provisions of Section 10.15 to execute and deliver to the Trustee a supplement to this Indenture substantially in the form of Exhibit A hereto in accordance with the provisions of Article Nine of this Indenture pursuant to which such Restricted Subsidiary shall guarantee all of the obligations on the Notes, whether for principal, premium, if any, interest (including interest accruing after the filing of, or which would have accrued but for the filing of, a petition by or against the Issuer under any Bankruptcy Law, whether or not such interest is allowed as a claim after such filing in any proceeding under such law) and other amounts due in connection therewith (including any fees, expenses and indemnities), on an unsecured senior basis, together with an Officer's Certificate and Opinion of Counsel stating that such supplemental indenture is authorized or permitted by this Indenture. Upon the execution of any such amendment or supplement, the obligations of the Guarantors and any such Restricted Subsidiary under their respective Note Guarantees shall become joint and several and each reference to the "Guarantor" in this Indenture shall, subject to Section 12.08, be deemed to refer to all Guarantors, including such Restricted Subsidiary. Such Note Guarantee shall be released in accordance with Section 8.03 and Section 12.08.

SECTION 12.04. Limitation of Guarantors' Liability. Each Guarantor and by its acceptance hereof each Holder confirms that it is the intention of all such parties that the guarantee by each such Guarantor pursuant to its Note Guarantee not constitute a fraudulent transfer or conveyance for purposes of the Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law or the provisions of its local law relating to fraudulent transfer or conveyance. To effectuate the foregoing intention, the Holders and each such Guarantor hereby irrevocably agree that the obligations of such Guarantor under its Note Guarantee shall be limited to the maximum amount that will not, after giving effect to all other contingent and fixed liabilities of such Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under its Note Guarantee or pursuant
to this Section 12.04, result in the obligations of such Guarantor under its Note Guarantee constituting such fraudulent transfer or conveyance.

SECTION 12.05. Contribution. In order to provide for just and equitable contribution among the Guarantors, the Guarantors agree, *inter se*, that in the event any payment or distribution is made by any Guarantor (a "*Funding Guarantor*") under a Note Guarantee, such Funding Guarantor shall be entitled to a contribution from all other Guarantors in a *pro rata* amount based on the Adjusted Net Assets (as defined below) of each Guarantor (including the Funding Guarantor) for all payments, damages and expenses incurred by that Funding Guarantor in discharging the Issuer's obligations with respect to the Notes or any other Guarantor's obligations with respect to the Note Guarantee of such Guarantor. "*Adjusted Net Assets*" of such Guarantor at any date shall mean the lesser of (1) the amount by which the fair value of the property of such Guarantor exceeds the total amount of liabilities, including contingent liabilities (after giving effect to all other fixed and contingent liabilities incurred or assumed on such date), but excluding liabilities under the Note Guarantee of such Guarantor at such date and (2) the amount by which the present fair salable value of the assets of such Guarantor at such date exceeds the amount that will be required to pay the probable liability of such Guarantor on its debts (after giving effect to all other fixed and contingent liabilities incurred or assumed on such date), excluding debt in respect of the Note Guarantee of such Guarantor, as they become absolute and matured.

SECTION 12.06. Subrogation. Each Guarantor shall be subrogated to all rights of Holders against the Issuer in respect of any amounts paid by any Guarantor pursuant to the provisions of Section 12.01; *provided* that, if an Event of Default has occurred and is continuing, no Guarantor shall be entitled to enforce or receive any payments arising out of, or based upon, such right of subrogation until all amounts then due and payable by the Issuer under this Indenture or the Notes shall have been paid in full.

SECTION 12.07. Reinstatement. Each Guarantor hereby agrees (and each Person who becomes a Guarantor shall agree) that the Note Guarantee provided for in Section 12.01 shall continue to be effective or be reinstated, as the case may be, if at any time, payment, or any part thereof, of any obligations or interest thereon is rescinded or must otherwise be restored by a Holder to the Issuer upon the bankruptcy or insolvency of the Issuer or any Guarantor.

SECTION 12.08. Release of a Guarantor. Any Note Guarantee by a Guarantor shall be automatically and unconditionally released and discharged:

(1) upon any sale, exchange, transfer or other disposition (by merger, consolidation, amalgamation, dividend, distribution or otherwise) of (i) the Capital Stock of such Guarantor, after which such Guarantor is no longer a Restricted Subsidiary or (ii) all or substantially all of the assets of such Guarantor, in each case, if such sale, exchange, transfer or other disposition is not prohibited by the applicable provisions of this Indenture;

(2) (i) upon the release or discharge of the guarantee by such Guarantor with respect to the Senior Credit Facilities, (ii) upon the release or discharge of such other guarantee that resulted in the creation of such Note Guarantee or (iii) in the case of a Note Guarantee created pursuant to clause (ii) under Section 10.15, upon a reduction in aggregate principal amount of the Indebtedness that resulted in such Note Guarantee to $75.0 million or less, except (A) in the case of clauses (i) and (ii), a discharge or release by or as a result of payment under such guarantee after the occurrence of a payment default or acceleration thereunder (it being understood that a release subject to a contingent reinstatement is still a release) and (B) in all cases, if at the time of the release and discharge of such Note Guarantee, such Guarantor would be required to guarantee the Notes pursuant to Section 10.15;

(3) upon the designation of such Guarantor as an Unrestricted Subsidiary in compliance with the applicable provisions of this Indenture;

(4) upon the Issuer's exercise of the legal defeasance option or covenant defeasance option as described under Section 13.02 or Section 13.03 or if the Issuer's obligations under this Indenture are discharged in accordance with the terms of this Indenture;

(5) upon the merger, amalgamation or consolidation of such Guarantor with and into the Issuer or another Guarantor that is the surviving Person in such merger, amalgamation or consolidation, or upon the liquidation of such Guarantor;

(6) upon the occurrence of a Covenant Suspension Event; provided that (i) such Note Guarantee shall not be released pursuant to this clause (6) for so long as such Guarantor is an obligor with respect to any Indebtedness under the Senior Credit Facilities and (ii) in the case of a Covenant Suspension Event, such Note Guarantee shall be reinstated upon the occurrence of the Reversion Date ; or

(7) as described under Section 9.02 or in accordance with the provisions of the Equal Priority Intercreditor Agreement.

SECTION 12.09. Benefits Acknowledged. Each Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by this Indenture and from its guarantee and waivers pursuant to its Note Guarantees under this Article Twelve.

SECTION 12.10. Effectiveness of Note Guarantees.

This Indenture, including the provisions set forth in this Article Twelve, shall be effective upon its execution and delivery by the parties hereto.

ARTICLE THIRTEEN

LEGAL DEFEASANCE AND COVENANT DEFEASANCE

SECTION 13.01. Issuer's Option to Effect Legal Defeasance or Covenant Defeasance. The Issuer may, at its option, at any time, with respect to the Notes, elect to have either Section 13.02 or Section 13.03 be applied to all Outstanding Notes upon compliance with the conditions set forth below in this Article Thirteen.

SECTION 13.02. Legal Defeasance and Discharge. Upon the Issuer's exercise under Section 13.01 of the option applicable to this Section 13.02, each of the Issuer and the Guarantors shall be deemed to have been discharged from its respective obligations with respect to all Outstanding Notes, the applicable Security Documents and the Note Guarantees and have Liens on the Collateral securing the Notes released on the date the conditions set forth in Section 13.04 are satisfied (hereinafter, "*Legal Defeasance*"). For this purpose, such Legal Defeasance means that each of the Issuer and the Guarantors shall be deemed to have paid and discharged the entire indebtedness represented by the Outstanding Notes, which shall thereafter be deemed to be "Outstanding" only for the purposes of Section 13.05 and the other Sections of this Indenture referred to in (1) and (2) below, and the Note Guarantees and to have satisfied all its other obligations under such Notes, Note Guarantees and this Indenture insofar as such

Notes are concerned (and the Trustee, at the expense of the Issuer, shall execute proper instruments acknowledging the same), except for the following which shall survive until otherwise terminated or discharged hereunder: (1) the rights of Holders to receive payments in respect of the principal of (and premium, if any, on) and interest on such Notes when such payments are due, solely out of the trust created pursuant to this Indenture, (2) the Issuer's obligations with respect to such Notes under Sections 3.04, 3.05, 3.06, 10.02 and 10.03, (3) the rights, powers, trusts, duties and immunities of the Trustee and the Notes Collateral Agent hereunder, and the obligations of each of the Guarantors and the Issuer in connection therewith (including but not limited to those obligations under Section 6.07) and (4) this Article Thirteen. Subject to compliance with this Article Thirteen, the Issuer may exercise its option under this Section 13.02 notwithstanding the prior exercise of its option under Section 13.03 with respect to the Notes.

SECTION 13.03. Covenant Defeasance. Upon the Issuer's exercise under Section 13.01 of the option applicable to this Section 13.03, each of the Issuer and the Guarantors shall be released from its respective obligations under any covenant contained in Sections 8.01(a)(3), (4) and (5), Sections 8.02(1)(C) and 8.02(2), and in Sections 10.04 through and including 10.17 with respect to the Outstanding Notes on and after the date the conditions set forth below are satisfied (hereinafter, "*Covenant Defeasance*"), and the Notes shall thereafter be deemed not to be "Outstanding" for the purposes of any direction, waiver, consent or declaration or Act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "Outstanding" for all other purposes hereunder. For this purpose, such Covenant Defeasance means that, with respect to the Outstanding Notes, the Issuer or any Guarantor, as applicable, may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Sections 5.01(3), and as a result of such Covenant Defeasance, Sections 5.01(4), 5.01(5), and 5.01(7) and, with respect to only any Significant Subsidiary (or group of Restricted Subsidiaries that together constitute a Significant Subsidiary) and not the Issuer, Section 5.01(6), shall no longer be in effect but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby.

SECTION 13.04. Conditions to Legal Defeasance or Covenant Defeasance. The following shall be the conditions to application of either Section 13.02 or Section 13.03 to the Outstanding Notes:

(1) the Issuer must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders, cash in U.S. dollars, U.S. Government Obligations, or a combination thereof, in such amounts (including scheduled payments thereon) as will be sufficient, in the opinion of an Independent Financial Advisor, to pay the principal of, premium, if any, and interest due on the Notes on the stated maturity date or on the Redemption Date, as the case may be, of such principal, premium, if any, or interest on such Notes and the Issuer must specify whether such Notes are being defeased to maturity or to a particular Redemption Date; *provided*, that upon any redemption that requires the payment of the Applicable Premium, the amount deposited shall be sufficient for purposes of this Indenture to the extent that an amount is deposited with the Trustee equal to the Applicable Premium calculated as of the date of the notice of redemption, with any Applicable Premium Deficit only required to be deposited with the Trustee on or prior to the date of redemption. Any Applicable Premium Deficit shall be set forth in an Officer's Certificate delivered to the Trustee simultaneously with the deposit of such Applicable Premium Deficit that confirms that such Applicable Premium Deficit shall be applied toward such redemption;

(2) in the case of Legal Defeasance, the Issuer shall have delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that, subject to customary assumptions and exclusions,

(A) the Issuer has received from, or there has been published by, the United States Internal Revenue Service a ruling, or

(B) since the issuance of the Notes, there has been a change in the applicable U.S. federal income tax law,

in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, subject to customary assumptions and exclusions, the Holders will not recognize income, gain or loss for U.S. federal income tax purposes, as applicable, as a result of such Legal Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(3) in the case of Covenant Defeasance, the Issuer shall have delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that, subject to customary assumptions and exclusions, the Holders will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(4) no Default or Event of Default (other than that resulting from borrowing funds to be applied to make such deposit and any similar and simultaneous deposit relating to other Indebtedness, and, in each case the granting of Liens in connection therewith) shall have occurred and be continuing on the date of such deposit;

(5) such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under any material agreement or material instrument (other than this Indenture) to which, the Issuer or any Guarantor is a party or by which the Issuer or any Guarantor is bound (other than that resulting from borrowing funds to be applied to make such deposit and any similar and simultaneous deposit relating to other Indebtedness and, in each case, the granting of Liens in connection therewith);

(6) the Issuer shall have delivered to the Trustee an Officer's Certificate stating that the deposit was not made by the Issuer with the intent of defeating, hindering, delaying or defrauding any creditors of the Issuer or any Guarantor or others; and

(7) the Issuer shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel (which Opinion of Counsel may be subject to customary assumptions and exclusions) each stating that all conditions precedent provided for or relating to the Legal Defeasance or the Covenant Defeasance, as the case may be, have been complied with.

SECTION 13.05. Deposited Money and U.S. Government Obligations To Be Held in Trust Other Miscellaneous Provisions. Subject to the provisions of the last paragraph of Section 10.03, all cash and U.S. Government Obligations (including the proceeds thereof) deposited with the Trustee pursuant to Section 13.04 in respect of the Outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Issuer acting as its own Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal (and premium, if any) and interest, but such money or U.S. Government Obligations need not be segregated from other funds except to the extent required by law.

The Issuer shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the U.S. Government Obligations deposited pursuant to Section 13.04 or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the Outstanding Notes.

Anything in this Article Thirteen to the contrary notwithstanding, the Trustee shall deliver or pay to the Issuer from time to time upon Issuer Request any money or U.S. Government Obligations held by it as provided in Section 13.04 which, in the opinion of an Independent Financial Advisor expressed in a written certification thereof delivered to the Trustee, are in excess of the amount thereof which would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance, as applicable, in accordance with this Article.

SECTION 13.06. Reinstatement. If the Trustee or any Paying Agent is unable to apply any money or U.S. Government Obligations in accordance with Section 13.05 by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Issuer's and each Guarantor's obligations under this Indenture and the Outstanding Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 13.02 or 13.03, as the case may be, until such time as the Trustee or Paying Agent is permitted to apply all such money or U.S. Government Obligations in accordance with Section 13.05; *provided* that, if the Issuer makes any payment of principal of (or premium, if any) or interest on any Note following the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or U.S. Government Obligations held by the Trustee or Paying Agent.

ARTICLE FOURTEEN

COLLATERAL

SECTION 14.01. Security Documents.

(1) The due and punctual payment of the principal of, premium and interest on the Notes when and as the same shall be due and payable, whether on an interest payment date, at maturity, by acceleration, repurchase, redemption or otherwise, and interest on the overdue principal of, premium and interest on the Notes and performance of all other Obligations of the Issuer and the Guarantors to the Holders or the Trustee under this Indenture, the Notes, the Note Guarantees, the Intercreditor Agreements and the Security Documents, according to the terms hereunder or thereunder, shall be secured as provided in the Security Documents, which define the terms of the Liens that secure the Secured Notes Obligations, subject to the terms of the Intercreditor Agreements. The Trustee, the Issuer and the Guarantors hereby acknowledge and agree that the Notes Collateral Agent holds the Collateral in trust for the benefit of the Holders, the Trustee and the Notes Collateral Agent and pursuant to the terms of the Security Documents and the Intercreditor Agreements. Each Holder, by accepting a Note, consents and agrees to the terms of the Security Documents (including the provisions providing for the possession, use, release and foreclosure of Collateral) and the Intercreditor Agreements as the same may be in effect or may be amended from time to time in accordance with their terms and this Indenture and the Intercreditor Agreements, and authorizes and directs the Notes Collateral Agent to enter into the Security Documents and the Equal Priority Intercreditor Agreement on the Issue Date and to perform its obligations and exercise its rights thereunder in accordance therewith. In the event of conflict between an Intercreditor

Agreement, any of the other Security Documents and this Indenture, the applicable Intercreditor Agreement shall control. The Issuer shall deliver to the Notes Collateral Agent copies of all documents required to be filed pursuant to the Security Documents, and will do or cause to be done all such acts and things as may be reasonably required by the next sentence of this Section 14.01, to assure and confirm to the Notes Collateral Agent the security interest in the Collateral contemplated hereby, by the Security Documents or any part thereof, as from time to time constituted, so as to render the same available for the security and benefit of this Indenture and of the Notes secured hereby, according to the intent and purposes herein expressed. The Issuer and the Guarantors shall, at their sole expense, take all actions (including filing Uniform Commercial Code and other financing statements, mortgages and deeds of trust) that may be required under applicable law, or that the Trustee or the Notes Collateral Agent may reasonably request, in order to ensure the creation, perfection and priority (or continuance thereof) of the security interests created or intended to be created by the Security Documents in the Collateral. Such security interests will be created under the Security Documents and other security agreements, mortgages, deeds of trust and other instruments and documents in form reasonably satisfactory to the Trustee.

(2) It is understood and agreed that prior to the discharge of the Senior Credit Facility Obligations, to the extent that the Senior Credit Facilities Collateral Agent is satisfied with or agrees to any deliveries or documents required to be provided in respect of any matters relating to the Collateral or makes any determination in respect of any matters relating to the Collateral (including, without limitation, extensions of time or waivers for the creation and perfection of security interests in, or the obtaining of title insurance, legal opinions or other deliverables with respect to, particular assets (including in connection with assets acquired, or Subsidiaries formed or acquired, after the Issue Date)), the Notes Collateral Agent shall be deemed to be satisfied with such deliveries and/or documents and the judgment of the Senior Credit Facilities Collateral Agent in respect of any such matters under the Senior Credit Facilities shall be deemed to be the judgment of the Notes Collateral Agent in respect of such matters under this Indenture and the Security Documents.

(3) To the extent that the Lien on any Collateral is not or cannot be created and/or perfected on the Issue Date (other than (i) by the execution and delivery of the Security Agreement by the Issuer and the Guarantors, (ii) a Lien on Collateral that is of the type that may be perfected by the filing of a financing statement under the UCC and (iii) a Lien on the Equity Interests of the Issuer and each Restricted Subsidiary required to be pledged pursuant to the Security Agreement that may be perfected on the Issue Date by the delivery of a stock or equivalent certificate (together with a stock power or similar instrument endorsed in blank for the relevant certificate)), in each case after the Issuer's use of commercially reasonably efforts to do so or without undue burden or expense, the Issuer shall take all necessary actions to create and/or perfect such Lien pursuant to arrangements to be mutually agreed between the Issuer and the Controlling Collateral Agent acting reasonably.

SECTION 14.02. Release of Collateral.

(a) The Issuer and the Guarantors will be entitled to the release of property and other assets constituting Collateral from the Liens securing the Notes and the Note Guarantees under any one or more of the following circumstances:

(1) to enable the Issuer or any Guarantor to consummate the sale, transfer or other disposition (including by the termination of Capitalized Lease Obligations or the repossession of the leased property subject to Capitalized Lease Obligations by the lessor and by means of a Restricted Payment) of such Collateral to any Person other than the Issuer or a Guarantor, to the extent such sale, transfer or other disposition is not prohibited by the covenant described under Section 10.17;

(2) in the case of a Guarantor that is released from its Note Guarantee, with respect to the property and other assets of such Guarantor, upon the release of such Guarantor from its Note Guarantee;

(3) with respect to Collateral that is Capital Stock, upon (i) the dissolution or liquidation of the issuer of that Capital Stock that is not prohibited by this Indenture or (ii) upon the designation by the Issuer of such issuer of Capital Stock as an Unrestricted Subsidiary under this Indenture;

(4) with respect to any Collateral that becomes an "Excluded Asset," upon it becoming an Excluded Asset;

(5) in accordance with Section 10.12(a)(2);

(6) to the extent the Liens on the Collateral securing the Senior Credit Facility Obligations are released by the Senior Credit Facilities Collateral Agent (other than a discharge or release by or as a result of payment under such guarantee after the occurrence of a payment default or acceleration thereunder (it being understood that a release subject to a contingent reinstatement is still a release)), upon the release of such Liens;

(7) in connection with any enforcement action taken by the Controlling Collateral Agent in accordance with the terms of the Equal Priority Intercreditor Agreement; or

(8) as described under Article Nine.

(b) The Liens on the Collateral securing the Notes and the related Note Guarantees also shall automatically, subject to Section 14.02(d) below, and without the need for any further action by any Person be terminated and released,

(1) upon payment in full of the principal of, together with accrued and unpaid interest on, the Notes and all other Obligations in respect of the Notes under this Indenture, the related Note Guarantees and the Security Documents that are due and payable at or prior to the time such principal, together with accrued and unpaid interest, are paid,

(2) upon a legal defeasance or covenant defeasance with respect to the Notes under this Indenture as described above in Article Thirteen or a satisfaction and discharge of this Indenture with respect to the Notes as described under Article Four or

(3) pursuant to the Equal Priority Intercreditor Agreement described above and the Security Documents with respect to the Notes, in each case, other than any contingent obligations (including contingent indemnity obligations not yet due or payable).

(c) In addition, any Lien on any Collateral may be subordinated to the holder of any Lien on such Collateral that is created, incurred, or assumed pursuant to clauses (2), (3), (4), (5), (6), (7), (8)(a), (9), (11), (12), (13), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25), (26), (27), (28), (31), (33), (35), (36), (38), (42), (43), (45), (46) and/or (47) of the definition of "Permitted Liens" to the extent required by the terms of the Obligations secured by such Liens.

(d) With respect to any release of Collateral, upon receipt of an Officer's Certificate stating that all conditions precedent under this Indenture and the Security Documents and the Intercreditor Agreements, as applicable, to such release have been met and that it is permitted for the Trustee or Notes Collateral Agent to execute and deliver the documents requested by the Issuer in connection with such release and any necessary or proper instruments of termination, satisfaction or release prepared by the Issuer, the Trustee and the Notes Collateral Agent shall execute, deliver or acknowledge (at the Issuer's expense) such instruments or releases to evidence the release, without recourse, representation or warranty of any kind, of any Collateral permitted to be released pursuant to this Indenture or the Security Documents or the Intercreditor Agreements and shall do or cause to be done (at the Issuer's expense) all acts reasonably requested of them to release such Lien as soon as is reasonably practicable. Neither the Trustee nor the Notes Collateral Agent shall be liable for any such release undertaken in reliance upon any such Officer's Certificate, and notwithstanding any term hereof or in any Security Document or in the Intercreditor Agreements to the contrary, the Trustee and the Notes Collateral Agent shall not be under any obligation to release any such Lien and security interest, or execute and deliver any such instrument of release, satisfaction or termination, unless and until it receives such Officer's Certificate.

SECTION 14.03. Suits to Protect the Collateral.

Subject to the provisions of Article Six, the Security Documents and the Intercreditor Agreements, the Trustee may or may direct the Notes Collateral Agent to take all actions it determines in order to:

(1) enforce any of the terms of the Security Documents; and

(2) collect and receive any and all amounts payable in respect of the Obligations hereunder.

Subject to the provisions of the Security Documents and the Intercreditor Agreements, the Trustee and the Notes Collateral Agent shall have power to institute and to maintain such suits and proceedings as the Trustee may determine to prevent any impairment of the Collateral by any acts which may be unlawful or in violation of any of the Security Documents or this Indenture, and such suits and proceedings as the Trustee may determine to preserve or protect its interests and the interests of the Holders in the Collateral. Nothing in this Section 14.03 shall be considered to impose any such duty or obligation to act on the part of the Trustee or the Notes Collateral Agent.

SECTION 14.04. Authorization of Receipt of Funds by the Trustee Under the Security Documents.

Subject to the provisions of the Intercreditor Agreements, the Trustee is authorized to receive any funds for the benefit of the Holders distributed under the Security Documents, and to make further distributions of such funds to the Holders according to the provisions of this Indenture.

SECTION 14.05. Purchaser Protected.

In no event shall any purchaser in good faith of any property purported to be released hereunder be bound to ascertain the authority of the Notes Collateral Agent or the Trustee to execute the applicable release or to inquire as to the satisfaction of any conditions required by the provisions hereof for the exercise of such authority or to see to the application of any consideration given by such purchaser or other transferee; nor shall any purchaser or other transferee of any property or rights permitted by this Article Fourteen to be sold be under any obligation to ascertain or inquire into the authority of the Issuer or the applicable Guarantor to make any such sale or other transfer.

SECTION 14.06. Powers Exercisable by Receiver or Trustee.

In case the Collateral shall be in the possession of a receiver or trustee, lawfully appointed, the powers conferred in this Article Fourteen upon the Issuer or a Guarantor with respect to the release, sale or other disposition of such property may be exercised by such receiver or trustee, and an instrument signed by such receiver or trustee shall be deemed the equivalent of any similar instrument of the Issuer or a Guarantor or of any Officer or Officers thereof required by the provisions of this Article Fourteen; and if the Trustee shall be in the possession of the Collateral under any provision of this Indenture, then such powers may be exercised by the Trustee.

SECTION 14.07. Certain Limitations on Collateral.

Notwithstanding anything in this Indenture or any Security Document, it understood and agreed that:

(a) Liens required to be granted from time to time pursuant to this Indenture shall be subject to exceptions and limitations set forth in the applicable Security Documents;

(b) (i) perfection by control will not be required with respect to assets requiring perfection through control agreements or other control arrangements, including Deposit Accounts, securities accounts and commodities accounts (other than control or possession of pledged Equity Interests (to the extent certificated) and Material Debt Instruments that constitute Collateral) and (ii) no blocked account agreement, deposit account control agreement or similar agreement will be required for any Deposit Account, securities account or commodities account;

(c) no actions will be required to be taken, and the Notes Collateral Agent will not be authorized to take any action, in any non-U.S. jurisdiction or required by the laws of any non-U.S. jurisdiction to create any security interests in assets located or titled outside of the U.S. or to perfect or make enforceable any security interests in any such assets (it being understood that there shall be no security agreements or pledge agreements governed under the laws of any non-U.S. jurisdiction and no non-U.S. intellectual property filings, searches or schedules);

(d) no actions will be required to perfect a security interest in (i) any vehicle or other asset subject to a certificate of title, (ii) letter-of-credit rights not constituting supporting obligations of other Collateral, (ii) the Equity Interests of any Immaterial Subsidiary or any Minority Investments, (iv) the Equity Interests of any Person that is not a Subsidiary or (v) commercial tort claims with a value of less than $25.0 million, except in the case of each of clauses (i) through (v), perfection actions limited solely to the filing of a UCC financing statement by the Grantor; and

(e) no landlord waiver or bailee’s letter, estoppels or collateral access letters shall be required to be delivered.

SECTION 14.08. Notes Collateral Agent.

(1) The Issuer and each of the Holders by acceptance of the Notes hereby designates and appoints the Notes Collateral Agent as its agent under this Indenture, the Security Documents and the Intercreditor Agreements, and the Issuer and each of the Holders by acceptance of the Notes hereby irrevocably authorizes the Notes Collateral Agent to take such action on its behalf under the provisions of this Indenture, the Security Documents and the Intercreditor Agreements and to exercise such powers and perform such duties as are expressly delegated to the Notes Collateral Agent by the terms of this Indenture, the Security Documents and the Intercreditor Agreements, and consents and agrees to the terms of the Intercreditor Agreements and each Security Document, as the same may be in effect or may be amended, restated, supplemented or otherwise modified from time to time in accordance with their respective terms. The Notes Collateral Agent agrees to act as such on the express conditions contained in this Section 14.08. Each Holder agrees that any action taken by the Notes Collateral Agent in accordance with the provision of this Indenture, the Intercreditor Agreements and the Security Documents, and the exercise by the Notes Collateral Agent of any rights or remedies set forth herein and therein shall be authorized and binding upon all Holders. Notwithstanding any provision to the contrary contained elsewhere in this Indenture, the Security Documents and the Intercreditor Agreements, the duties of the Notes Collateral Agent shall be ministerial and administrative in nature, and the Notes Collateral Agent shall not have any duties or responsibilities, except those expressly set forth herein and in the Security Documents and the Intercreditor Agreements to which the Notes Collateral Agent is a party, nor shall the Notes Collateral Agent have or be deemed to have any trust or other fiduciary relationship with the Trustee, any Holder or any Grantor, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Indenture, the Security Documents and the Intercreditor Agreements or otherwise exist against the Notes Collateral Agent. Without limiting the generality of the foregoing sentence, the use of the term "agent" in this Indenture with reference to the Notes Collateral Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties.

(2) The Notes Collateral Agent may perform any of its duties under this Indenture, the Security Documents or the Intercreditor Agreements by or through receivers, agents, employees, attorneys-in-fact or with respect to any specified Person, such Person's Affiliates, and the respective officers, directors, employees, agents, advisors and attorneys-in-fact of such Person and its Affiliates (a "Related Person"), and shall be entitled to advice of counsel concerning all matters pertaining to such duties, and shall be entitled to act upon, and shall be fully protected in taking action in reliance upon any advice or opinion given by legal counsel. The Notes Collateral Agent shall not be responsible for the negligence or misconduct of any receiver, agent, employee, attorney-in-fact or Related Person that it selects as long as such selection was made in good faith and with due care.

(3) None of the Notes Collateral Agent or any of its respective Related Persons shall (i) be liable for any action taken or omitted to be taken by any of them under or in connection with this Indenture or the transactions contemplated hereby (except for its own gross negligence or willful misconduct) or under or in connection with any Security Document or the Intercreditor Agreements or the transactions contemplated thereby (except for its own gross negligence or willful misconduct), or (ii) be responsible in any manner to any of the Trustee or any Holder for any recital, statement, representation, warranty, covenant or agreement made by the Issuer or any other Grantor or Affiliate of any Grantor, or any Officer

or Related Person thereof, contained in this Indenture, the Security Documents or the Intercreditor Agreements, or in any certificate, report, statement or other document referred to or provided for in, or received by the Notes Collateral Agent under or in connection with, this Indenture, the Security Documents or the Intercreditor Agreements, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Indenture, the Security Documents or the Intercreditor Agreements, or for any failure of any Grantor or any other party to this Indenture, the Security Documents or the Intercreditor Agreements to perform its obligations hereunder or thereunder. None of the Notes Collateral Agent or any of its respective Related Persons shall be under any obligation to the Trustee or any Holder to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Indenture, the Security Documents or the Intercreditor Agreements or to inspect the properties, books, or records of any Grantor or any Grantor's Affiliates.

(4) The Notes Collateral Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, facsimile, certification, telephone message, statement, or other communication, document or conversation (including those by telephone or e-mail) believed by it to be genuine and correct and to have been signed, sent, or made by the proper Person or Persons, and upon advice and statements of legal counsel (including, without limitation, counsel to the Issuer or any other Grantor), independent accountants and other experts and advisors selected by the Notes Collateral Agent. The Notes Collateral Agent shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, or other paper or document. The Notes Collateral Agent shall be fully justified in failing or refusing to take any action under this Indenture, the Security Documents or the Intercreditor Agreements unless it shall first receive such advice or concurrence of the Trustee or the Holders of a majority in aggregate principal amount of the Notes as it determines and, if it so requests, it shall first be indemnified to its reasonable satisfaction by the Holders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Notes Collateral Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Indenture, the Security Documents or the Intercreditor Agreements in accordance with a request, direction, instruction or consent of the Trustee or the Holders of a majority in aggregate principal amount of Outstanding Notes and such request and any action taken or failure to act pursuant thereto shall be binding upon all of the Holders.

(5) The Notes Collateral Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default, unless a Responsible Officer of the Notes Collateral Agent shall have received written notice from the Trustee or the Issuer referring to this Indenture, describing such Default or Event of Default and stating that such notice is a "notice of default." The Notes Collateral Agent shall take such action with respect to such Default or Event of Default as may be requested by the Trustee in accordance with Article Five or the Holders of a majority in aggregate principal amount of the Notes (subject to this Section 14.08).

(6) The Notes Collateral Agent may resign at any time by notice to the Trustee and the Issuer, such resignation to be effective upon the acceptance of a successor agent to its appointment as Notes Collateral Agent. If the Notes Collateral Agent resigns under this Indenture, the Issuer shall appoint a successor collateral agent. If no successor collateral agent is appointed prior to the intended effective date of the resignation of the Notes Collateral Agent (as stated in the notice of resignation), the Trustee, at the direction of the Holders of a majority of the aggregate principal amount of the Notes then outstanding, may appoint a successor

collateral agent, subject to the consent of the Issuer (which consent shall not be unreasonably withheld and which shall not be required during a continuing Event of Default). If no successor collateral agent is appointed and consented to by the Issuer pursuant to the preceding sentence within thirty (30) days after the intended effective date of resignation (as stated in the notice of resignation) the Notes Collateral Agent shall be entitled to petition a court of competent jurisdiction to appoint a successor. Upon the acceptance of its appointment as successor collateral agent hereunder, such successor collateral agent shall succeed to all the rights, powers and duties of the retiring Notes Collateral Agent, and the term "Notes Collateral Agent" shall mean such successor collateral agent, and the retiring Notes Collateral Agent's appointment, powers and duties as the Notes Collateral Agent shall be terminated. After the retiring Notes Collateral Agent's resignation hereunder, the provisions of this Section 14.08 shall continue to inure to its benefit and the retiring Notes Collateral Agent shall not by reason of such resignation be deemed to be released from liability as to any actions taken or omitted to be taken by it while it was the Notes Collateral Agent under this Indenture.

(7) The Bank of New York Mellon shall initially act as Notes Collateral Agent and shall be authorized to appoint co-Notes Collateral Agents as necessary in its sole discretion. Except as otherwise explicitly provided herein or in the Security Documents or the Intercreditor Agreements, neither the Notes Collateral Agent nor any of its respective officers, directors, employees or agents or other Related Persons shall be liable for failure to demand, collect or realize upon any of the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of any other Person or to take any other action whatsoever with regard to the Collateral or any part thereof. The Notes Collateral Agent shall be accountable only for amounts that it actually receives as a result of the exercise of such powers, and neither the Notes Collateral Agent nor any of its officers, directors, employees or agents shall be responsible for any act or failure to act hereunder, except for its own gross negligence or willful misconduct.

(8) The Notes Collateral Agent is authorized and directed to (i) enter into the Security Documents to which it is party, whether executed on or after the Issue Date, (ii) enter into the Intercreditor Agreements, whether executed on or after the Issue Date, (iii) make the representations of the Holders set forth in the Security Documents and Intercreditor Agreements, (iv) bind the Holders on the terms as set forth in the Security Documents and the Intercreditor Agreements and (v) perform and observe its obligations under the Security Documents and the Intercreditor Agreements.

(9) [Reserved]

(10) The Notes Collateral Agent is each Holder's agent for the purpose of perfecting the Holders' security interest in assets which, in accordance with Article 9 of the Uniform Commercial Code can be perfected only by possession. Should the Trustee obtain possession of any such Collateral, upon request from the Issuer, the Trustee shall notify the Notes Collateral Agent thereof and promptly shall deliver such Collateral to the Notes Collateral Agent or otherwise deal with such Collateral in accordance with the Notes Collateral Agent's instructions.

(11) The Notes Collateral Agent shall have no obligation whatsoever to the Trustee or any of the Holders to assure that the Collateral exists or is owned by any Grantor or is cared for, protected, or insured or has been encumbered, or that the Notes Collateral Agent's Liens have been properly or sufficiently or lawfully created, perfected, protected, maintained or enforced or are entitled to any particular priority, or to determine whether all of the Grantor's

property constituting Collateral intended to be subject to the Lien and security interest of the Security Documents has been properly and completely listed or delivered, as the case may be, or the genuineness, validity, marketability or sufficiency thereof or title thereto, or to exercise at all or in any particular manner or under any duty of care, disclosure or fidelity, or to continue exercising, any of the rights, authorities, and powers granted or available to the Notes Collateral Agent pursuant to this Indenture, any Security Document or the Intercreditor Agreements other than pursuant to the instructions of the Trustee or the Holders of a majority in aggregate principal amount of the Notes or as otherwise provided in the Security Documents.

(12) If the Issuer or any Guarantor (i) incurs any Junior Priority Obligations at any time when no Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement is in effect and (ii) delivers to the Notes Collateral Agent an Officer's Certificate so stating and requesting the Notes Collateral Agent to enter into a Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement in favor of a designated agent or representative for the holders of the Junior Priority Obligations so incurred, the Notes Collateral Agent shall (and is hereby authorized and directed to) enter into such intercreditor agreement (at the sole expense and cost of the Issuer, including legal fees and expenses of the Notes Collateral Agent), bind the Holders on the terms set forth therein and perform and observe its obligations thereunder.

(13) No provision of this Indenture, the Intercreditor Agreements or any Security Document shall require the Notes Collateral Agent (or the Trustee) to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or thereunder or to take or omit to take any action hereunder or thereunder or take any action at the request or direction of Holders (or the Trustee in the case of the Notes Collateral Agent) unless it shall have security and/or received indemnity reasonably satisfactory to the Notes Collateral Agent and the Trustee against potential costs and liabilities incurred by the Notes Collateral Agent relating thereto. Notwithstanding anything to the contrary contained in this Indenture, the Intercreditor Agreements or the Security Documents, in the event the Notes Collateral Agent is entitled or required to commence an action to foreclose or otherwise exercise its remedies to acquire control or possession of the Collateral, the Notes Collateral Agent shall not be required to commence any such action or exercise any remedy or to inspect or conduct any studies of any property under the mortgages or take any such other action if the Notes Collateral Agent has determined that the Notes Collateral Agent may incur personal liability as a result of the presence at, or release on or from, the Collateral or such property, of any hazardous substances. The Notes Collateral Agent shall at any time be entitled to cease taking any action described in this clause if it no longer reasonably deems any indemnity, security or undertaking from the Issuer or the Holders to be sufficient.

(14) The Notes Collateral Agent (i) shall not be liable for any action taken or omitted to be taken by it in connection with this Indenture, the Intercreditor Agreements and the Security Documents or instrument referred to herein or therein, except to the extent that any of the foregoing are found by a final, non-appealable judgment of a court of competent jurisdiction to have resulted from its own gross negligence or willful misconduct, (ii) shall not be liable for interest on any money received by it except as the Notes Collateral Agent may agree in writing with the Issuer (and money held in trust by the Notes Collateral Agent need not be segregated from other funds except to the extent required by law) and (iii) may consult with counsel of its selection and the advice or opinion of such counsel as to matters of law shall be full and complete authorization and protection from liability in respect of any action taken, omitted or suffered by it in good faith and in accordance with the advice or opinion of such counsel. The grant of permissive rights or powers to the Notes Collateral Agent shall not be construed to impose duties to act.

(15) The Notes Collateral Agent shall not be liable for any indirect, special, punitive, incidental or consequential damages (included but not limited to lost profits) whatsoever, even if it has been informed of the likelihood thereof and regardless of the form of action.

(16) The Notes Collateral Agent does not assume any responsibility for any failure or delay in performance or any breach by the Issuer or any other Grantor under this Indenture, the Intercreditor Agreements and the Security Documents. The Notes Collateral Agent shall not be responsible to the Holders or any other Person for any recitals, statements, information, representations or warranties contained in this Indenture, the Security Documents, the Intercreditor Agreements or in any certificate, report, statement, or other document referred to or provided for in, or received by the Notes Collateral Agent under or in connection with, this Indenture, the Intercreditor Agreements or any Security Document; the execution, validity, genuineness, effectiveness or enforceability of the Intercreditor Agreements and any Security Documents of any other party thereto; the genuineness, enforceability, collectability, value, sufficiency, location or existence of any Collateral, or the validity, effectiveness, enforceability, sufficiency, extent, perfection or priority of any Lien therein; the validity, enforceability or collectability of any Obligations; the assets, liabilities, financial condition, results of operations, business, creditworthiness or legal status of any obligor; or for any failure of any obligor to perform its Obligations under this Indenture, the Intercreditor Agreements and the Security Documents. The Notes Collateral Agent shall have no obligation to any Holder or any other Person to ascertain or inquire into the existence of any Default or Event of Default, the observance or performance by any obligor of any terms of this Indenture, the Intercreditor Agreements and the Security Documents, or the satisfaction of any conditions precedent contained in this Indenture, the Intercreditor Agreements and any Security Documents. The Notes Collateral Agent shall not be required to initiate or conduct any litigation or collection or other proceeding under this Indenture, the Intercreditor Agreements and the Security Documents unless expressly set forth hereunder or thereunder. The Notes Collateral Agent shall have the right at any time to seek instructions from the Holders with respect to the administration of this Indenture, the Security Documents and the Intercreditor Agreements.

(17) The parties hereto and the Holders hereby agree and acknowledge that neither the Notes Collateral Agent nor the Trustee shall assume, be responsible for or otherwise be obligated for any liabilities, claims, causes of action, suits, losses, allegations, requests, demands, penalties, fines, settlements, damages (including foreseeable and unforeseeable), judgments, expenses and costs (including but not limited to, any remediation, corrective action, response, removal or remedial action, or investigation, operations and maintenance or monitoring costs, for personal injury or property damages, real or personal) of any kind whatsoever, pursuant to any environmental law as a result of this Indenture, the Intercreditor Agreements, the Security Documents or any actions taken pursuant hereto or thereto. Further, the parties hereto and the Holders hereby agree and acknowledge that in the exercise of its rights under this Indenture, the Intercreditor Agreements and the Security Documents, the Notes Collateral Agent may hold or obtain indicia of ownership primarily to protect the security interest of the Notes Collateral Agent in the Collateral and that any such actions taken by the Notes Collateral Agent shall not be construed as or otherwise constitute any participation in the management of such Collateral. In the event that the Notes Collateral Agent or the Trustee is required to acquire title to an asset for any reason, or take any managerial action of any kind in regard thereto, in order to carry out any fiduciary or trust obligation for the benefit of another,

which in the Notes Collateral Agent or the Trustee's sole discretion may cause the Notes Collateral Agent or the Trustee to be considered an "owner or operator" under the provisions of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §9601, et seq., or otherwise cause the Notes Collateral Agent or the Trustee to incur liability under CERCLA or any other federal, state or local law, the Notes Collateral Agent and the Trustee reserves the right, instead of taking such action, to either resign as the Notes Collateral Agent or the Trustee or arrange for the transfer of the title or control of the asset to a court-appointed receiver. Neither the Notes Collateral Agent nor the Trustee shall be liable to the Issuer, the Guarantors or any other Person for any environmental claims or contribution actions under any federal, state or local law, rule or regulation by reason of the Notes Collateral Agent or the Trustee's actions and conduct as authorized, empowered and directed hereunder or relating to the discharge, release or threatened release of hazardous materials into the environment. If at any time it is necessary or advisable for property to be possessed, owned, operated or managed by any Person (including the Notes Collateral Agent or the Trustee) other than the Issuer or the Guarantors, a majority in interest of Holders shall direct the Notes Collateral Agent or the Trustee to appoint an appropriately qualified Person (excluding the Notes Collateral Agent or the Trustee) who they shall designate to possess, own, operate or manage, as the case may be, the property.

(18) Upon the receipt by the Notes Collateral Agent of a written request of the Issuer signed by an Officer (a "Security Document Order"), the Notes Collateral Agent is hereby authorized to execute and enter into, and shall execute and enter into, without the further consent of any Holder or the Trustee, any Security Document to be executed after the Issue Date. Such Security Document Order shall (i) state that it is being delivered to the Notes Collateral Agent pursuant to, and is a Security Document Order referred to in, this Section 14.08(18), and (ii) instruct the Notes Collateral Agent to execute and enter into such Security Document. Any such execution of a Security Document shall be at the direction and expense of the Issuer, upon delivery to the Notes Collateral Agent of an Officer's Certificate stating that all conditions precedent to the execution and delivery of the Security Document have been satisfied. The Holders, by their acceptance of the Notes, hereby authorize and direct the Notes Collateral Agent to execute such Security Documents.

(19) Subject to the provisions of the applicable Security Documents and the Intercreditor Agreements, each Holder, by acceptance of the Notes, agrees that the Notes Collateral Agent shall execute and deliver the Intercreditor Agreements and the Security Documents to which it is a party and all agreements, documents and instruments incidental thereto, and act in accordance with the terms thereof. For the avoidance of doubt, the Notes Collateral Agent shall have no discretion under this Indenture, the Intercreditor Agreements or the Security Documents and shall not be required to make or give any determination, consent, approval, request or direction without the written direction of the Holders of a majority in aggregate principal amount of Outstanding Notes or the Trustee, as applicable.

(20) After the occurrence and continuance of an Event of Default, the Trustee, acting at the direction of the Holders of a majority of the aggregate principal amount of the Notes then outstanding, may direct the Notes Collateral Agent in connection with any action required or permitted by this Indenture, the Security Documents or the Intercreditor Agreements.

(21) The Notes Collateral Agent is authorized to receive any funds for the benefit of itself, the Trustee and the Holders distributed under the Security Documents or the Intercreditor Agreements and to the extent not prohibited under the Intercreditor Agreements, for turnover to the Trustee to make further distributions of such funds to itself, the Trustee and the Holders in accordance with the provisions of Section 5.06 and the other provisions of this Indenture.

(22) In each case that the Notes Collateral Agent may or is required hereunder or under any Security Document or any Intercreditor Agreement to take any action (an "Action"), including without limitation to make any determination, to give consents, to exercise rights, powers or remedies, to release or sell Collateral or otherwise to act hereunder or under any Security Document or any Intercreditor Agreement, the Notes Collateral Agent may seek direction from the Holders of a majority in aggregate principal amount of Outstanding Notes. The Notes Collateral Agent shall not be liable with respect to any Action taken or omitted to be taken by it in accordance with the direction from the Holders of a majority in aggregate principal amount of Outstanding Notes. If the Notes Collateral Agent shall request direction from the Holders of a majority in aggregate principal amount of Outstanding Notes with respect to any Action, the Notes Collateral Agent shall be entitled to refrain from such Action unless and until the Notes Collateral Agent shall have received direction from the Holders of a majority in aggregate principal amount of Outstanding Notes, and the Notes Collateral Agent shall not incur liability to any Person by reason of so refraining.

(23) Notwithstanding anything to the contrary in this Indenture or in any Security Document or any Intercreditor Agreement, in no event shall the Notes Collateral Agent or the Trustee be responsible for, or have any duty or obligation with respect to, the recording, filing, registering, perfection, protection or maintenance of the security interests or Liens intended to be created by this Indenture, the Security Documents or the Intercreditor Agreements (including without limitation the filing or continuation of any Uniform Commercial Code financing or continuation statements or similar documents or instruments), nor shall the Notes Collateral Agent or the Trustee be responsible for, and neither the Notes Collateral Agent nor the Trustee makes any representation regarding, the validity, effectiveness or priority of any of the Security Documents or the security interests or Liens intended to be created thereby. Additionally, neither the Notes Collateral Agent nor the Trustee shall be responsible for providing, maintaining, monitoring or preserving insurance on or the payment of taxes with respect to any of the Collateral. The actions described in Section 14.08(23) shall be the sole responsibility of the Grantors.

(24) Before the Notes Collateral Agent acts or refrains from acting in each case at the request or direction of the Issuer or the Guarantors, it may require an Officer's Certificate, which shall conform to the provisions of this Section 14.08 and Section 1.03; provided that no Officer's Certificate shall be required in connection with the Security Documents and the Equal Priority Intercreditor Agreement to be entered by the Notes Collateral Agent on the Issue Date. The Notes Collateral Agent shall not be liable for any action it takes or omits to take in good faith in reliance on such certificate.

(25) Notwithstanding anything to the contrary contained herein, the Notes Collateral Agent shall act pursuant to the instructions of the Holders and the Trustee solely with respect to the Security Documents and the Collateral.

(26) The rights, privileges, benefits, immunities, indemnities and other protections given to the Trustee are extended to, and shall be enforceable by, the Notes Collateral Agent as if the Notes Collateral Agent were named as the Trustee herein and the Security Documents were named as this Indenture herein.

(27) Section 6.07 of this Indenture shall apply mutatis mutandis to the Notes Collateral Agent in its capacity as such , provided that for the purposes of this Section 14.08(27), any reference to the negligence of the Trustee in 6.07 shall be deemed to be references to the gross negligence of the Notes Collateral Agent.

(28) Beyond the exercise of reasonable care in the custody thereof, neither the Notes Collateral Agent nor the Trustee shall have duty as to any Collateral in its possession or control or in the possession or control of any agent or bailee or any income thereon or as to preservation of rights against prior parties or any other rights pertaining thereto and the Notes Collateral Agent and the Trustee shall not be responsible for filing any financing or continuation statements or recording any documents or instruments in any public office at any time or times or otherwise perfecting or maintaining the perfection of any security interest in the Collateral. The Notes Collateral Agent shall be deemed to have exercised reasonable care in the custody of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which it accords its own property and shall not be liable or responsible for any loss or diminution in the value of any of the Collateral, by reason of the act or omission of any carrier, forwarding agency or other agent or bailee selected by the Notes Collateral Agent in good faith.

(29) Neither the Notes Collateral Agent nor the Trustee shall be responsible for the existence, genuineness or value of any of the Collateral or for the validity, perfection, priority or enforceability of the Liens in any of the Collateral, whether impaired by operation of law or by reason of any of any action or omission to act on its part hereunder, except to the extent such action or omission constitutes gross negligence or willful misconduct on the part of the Notes Collateral Agent, for the validity or sufficiency of the Collateral or any agreement or assignment contained therein, for the validity of the title of the applicable Grantor to the Collateral, for insuring the Collateral or for the payment of taxes, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of the Collateral.

SECTION 14.09. Security Documents; Intercreditor Agreements.

By their acceptance of the Notes, the Holders hereby authorize and direct the Trustee and Notes Collateral Agent, as the case may be, to execute and deliver each of the Security Documents, the Equal Priority Intercreditor Agreement and, if applicable, any Junior Priority Intercreditor Agreement or Acceptable Junior Priority Intercreditor Agreement to which the Trustee or the Notes Collateral Agent, as applicable, is to be a party, including any Intercreditor Agreement or Security Documents executed on or after the Issue Date and any amendments, joinders or supplements to any Intercreditor Agreement or Security Document permitted by this Indenture, *provided* that any such agreement is in form and substance reasonably satisfactory to the Trustee and the Notes Collateral Agent. It is hereby expressly acknowledged and agreed that, in doing so, the Trustee and the Notes Collateral Agent are not responsible for the terms or contents of such agreements, or for the validity or enforceability thereof, or the sufficiency thereof for any purpose. Whether or not so expressly stated therein, in entering into, or taking (or forbearing from) any action under, any Intercreditor Agreement or any other Security Document, the Trustee and the Notes Collateral Agent each shall have all of the rights, privileges, benefits, immunities, indemnities and other protections granted to it under this Indenture (in addition to those that may be granted to it under the terms of such other agreement or agreements).

[*Signature Pages Follow*]

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of the day and year first above written.

WW INTERNATIONAL, INC.

By: /s/ Amy O'Keefe
Name: Amy O'Keefe
Title: Chief Financial Officer

Kurbo, Inc.

By: /s/ Nicholas P. Hotchkin
Name: Nicholas P. Hotchkin
Title: Vice President and Treasurer

W Holdco, Inc.

By: /s/ Nicholas P. Hotchkin
Name: Nicholas P. Hotchkin
Title: Vice President and Treasurer

WW Health Solutions, Inc.

By: /s/ Nicholas P. Hotchkin
Name: Nicholas P. Hotchkin
Title: Vice President and Treasurer

WW North America Holdings, LLC

By: /s/ Nicholas P. Hotchkin
Name: Nicholas P. Hotchkin
Title: Vice President and Treasurer

WW.com, LLC

By: /s/ Nicholas P. Hotchkin
Name: Nicholas P. Hotchkin
Title: Vice President and Treasurer

THE BANK OF NEW YORK MELLON,
as Trustee and as Notes Collateral Agent

By: /s/ Francine Kincaid
Name: Francine Kincaid
Title: Vice President

PROVISIONS RELATING TO INITIAL NOTES

1. Definitions

1.1 Definitions.

For the purposes of this Appendix the following terms shall have the meanings indicated below:

"Depository" means The Depository Trust Company, its nominees and their respective successors.

"Definitive Note" means a certificated Note bearing, if required, the appropriate restricted notes legend set forth in Section 2.3(d).

"Distribution Compliance Period", with respect to any Notes, means the period of 40 consecutive days beginning on and including the latest of the Issue Date, the original issue date of the issuance of any Additional Notes and the date on which any such Notes (or any predecessor of such Notes) were first offered to persons other than distributors (as defined in rule 902 of Regulation S) in reliance on Regulation S.

"Initial Purchasers" means (1) with respect to the Notes issued on the Issue Date, Citigroup Global Markets Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, J.P. Morgan Securities LLC, KeyBanc Capital Markets Inc. and SunTrust Robinson Humphrey, Inc. and (2) with respect to each issuance of Additional Notes, the Persons purchasing such Additional Notes under the related Purchase Agreement.

"Non-U.S. Person" means a Person who is not a U.S. Person.

"Notes" means (1) $500,000,000 aggregate principal amount of 4.500% Senior Secured Notes due 2029 issued on the Issue Date and (2) Additional Notes, if any.

"Notes Custodian" means the custodian with respect to a Global Notes (as appointed by the Depository), or any successor Person thereto and shall initially be the Trustee.

"Purchase Agreement" means (1) with respect to the Notes issued on the Issue Date, the Purchase Agreement dated April 1, 2021, between the Issuer, the Guarantors and the Representatives on behalf of the Initial Purchasers, and (2) with respect to each issuance of Additional Notes, the purchase agreement among the Issuer, the Guarantors and the Persons purchasing such Additional Notes.

"QIB" means a "qualified institutional buyer" as defined in Rule 144A.

"Representatives" means Citigroup Global Markets Inc. and J.P. Morgan Securities LLC, as representative of the Initial Purchasers.

"Rule 144A Notes" means all Notes offered and sold to QIBs in reliance on Rule 144A.

"Securities Act" means the Securities Act of 1933, as amended.

"Transfer Restricted Notes" means Notes that bear or are required to bear the legend relating to restrictions on transfer relating to the Securities Act set forth in Section 2.3(d) hereto.

1.2 Other Definitions.

Term	Defined in Section:
"Agent Members"	2.1(b)
"Global Notes"	2.1(a)
"Regulation S"	2.1(a)
"Regulation S Global Note"	2.1(a)
"Rule 144A"	2.1(a)
"Rule 144A Global Note"	2.1(a)

2. The Notes.

2.1 (a) Form and Dating. The Notes will be offered and sold by the Issuer pursuant to a Purchase Agreement. The Notes will be resold initially only to (i) Persons reasonably believed to be QIBs in reliance on Rule 144A under the Securities Act ("Rule 144A") and (ii) Persons other than U.S. Persons (as defined in Regulation S) outside the United States in reliance on Regulation S under the Securities Act ("Regulation S"). Notes may thereafter be transferred to, among others, Persons reasonably believed to be QIBs and purchasers in reliance on Regulation S, subject to the restrictions on transfer set forth herein. Notes initially resold pursuant to Rule 144A shall be issued initially in the form of one or more permanent global notes in fully registered form (collectively, the "Rule 144A Global Note"); and Notes initially resold pursuant to Regulation S shall be issued initially in the form of one or more permanent global notes in fully registered form (collectively, the "Regulation S Global Note"), in each case without interest coupons and with the global notes legend and the applicable restricted notes legend set forth in Exhibit 1 hereto, which shall be deposited on behalf of the purchasers of the Notes represented thereby with the Notes Custodian and registered in the name of the Depository, duly executed by the Issuer and authenticated by the Trustee as provided in this Indenture.

Beneficial interests in a Rule 144A Global Note may be transferred to a Person who takes delivery in the form of an interest in a Regulation S Global Note, whether before or after the expiration of the Distribution Compliance Period, only if the transferor first delivers to the Trustee a written certificate (in a form satisfactory to the Issuer and the Trustee) to the effect that such transfer is being made in accordance with Rule 903 or 904 of Regulation S.

The Rule 144A Global Note and the Regulation S Global Note are collectively referred to herein as "Global Notes". The aggregate principal amount of the Global Notes may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depository or its nominee as hereinafter provided.

(b) Book-Entry Provisions. This Section 2.1(b) shall apply only to a Global Note deposited with or on behalf of the Depository.

The Issuer shall execute and the Trustee shall, in accordance with Section 2.2 below and 2.02 of this Indenture, authenticate and deliver initially one or more Global Notes that (a) shall be registered in the name of the Depository and (b) shall be delivered by the Trustee to such Depository or pursuant to such Depository's instructions or held by the Trustee as custodian for the Depository.

Members of, or participants in the Depository ("Agent Members") shall have no rights under this Indenture with respect to any Global Note held on their behalf by the Depository or by the Trustee as the custodian of the Depository or under such Global Note, and the Issuer, the Trustee and any agent of the Issuer or the Trustee shall be entitled to treat the Depository as the absolute owner of such Global Note for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Issuer, the Trustee or any agent of the Issuer or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depository or impair, as between the Depository and its Agent Members, the operation of customary practices of such Depository governing the exercise of the rights of a Holder of a beneficial interest in any Global Note.

(c) Definitive Notes. Except as provided in this Section 2.1, 2.3 or 2.4, owners of beneficial interests in Global Notes shall not be entitled to receive physical delivery of Definitive Notes.

2.2 Authentication. The Trustee shall authenticate and deliver: (1) on the Issue Date, $500,000,000 aggregate principal amount of 4.500% Senior Secured Notes due 2029 and (2) any Additional Notes for an original issue, in each case, in an aggregate principal amount specified in an Issuer Order pursuant to Section 2.02 of this Indenture. Such Issuer Order shall specify the amount of the Notes to be authenticated and the date on which the original issue of Notes is to be authenticated and, in the case of any issuance of Additional Notes pursuant to Section 3.13 of this Indenture, shall certify that such issuance is in compliance with Section 10.11 of this Indenture.

2.3 Transfer and Exchange.

(a) Transfer and Exchange of Definitive Notes. When Definitive Notes are presented to the Note Registrar with a request:

(x) to register the transfer of such Definitive Notes; or

(y) to exchange such Definitive Notes for an equal principal amount of Definitive Notes of other authorized denominations,

the Note Registrar shall register the transfer or make the exchange as requested if its reasonable requirements for such transaction are met; *provided*, *however*, that the Definitive Notes surrendered for transfer or exchange:

(i) shall be duly endorsed or accompanied by a written instrument of transfer in form reasonably satisfactory to the Issuer and the Note Registrar, duly executed by the Holder thereof or its attorney duly authorized in writing; and

(ii) if such Definitive Notes are required to bear a restricted notes legend, they are being transferred or exchanged pursuant to an effective registration statement under the Securities Act, pursuant to Section 2.3(b) or pursuant to clause (A), (B) or (C) below, and are accompanied by the following additional information and documents, as applicable:

(A) if such Definitive Notes are being delivered to the Note Registrar by a Holder for registration in the name of such Holder, without transfer, a certification from such Holder to that effect; or

(B) if such Definitive Notes are being transferred to the Issuer, a certification to that effect; or

(C) if such Definitive Notes are being transferred (x) pursuant to an exemption from registration in accordance with Rule 144A or Regulation S; or (y) in reliance upon another exemption from the requirements of the Securities Act: (i) a certification to that effect (in the form set forth on the reverse of the Note) and (ii) if the Issuer so requests, an opinion of counsel or other evidence reasonably satisfactory to it as to the compliance with the restrictions set forth in the legend set forth in Section 2.3(d).

(b) Restrictions on Transfer of a Definitive Note for a Beneficial Interest in a Global Note. A Definitive Note may not be exchanged for a beneficial interest in a Rule 144A Global Note or a Regulation S Global Note except upon satisfaction of the requirements set forth below. Upon receipt by the Trustee of a Definitive Note, duly endorsed or accompanied by appropriate instruments of transfer, in form satisfactory to the Trustee, together with:

(i) certification, in the form set forth on the reverse of the Note, that such Definitive Note is either (A) being transferred to a QIB in accordance with Rule 144A or (B) being transferred after expiration of the Distribution Compliance Period by a Person who initially purchased such Note in reliance on Regulation S to a buyer who elects to hold its interest in such Note in the form of a beneficial interest in the Regulation S Global Note; and

(ii) written instructions directing the Trustee to make, or to direct the Notes Custodian to make, an adjustment on its books and records with respect to such Rule 144A Global Note (in the case of a transfer pursuant to clause (b)(i)(A)) or Regulation S Global Note (in the case of a transfer pursuant to clause (b)(i)(B)) to reflect an increase in the aggregate principal amount of the Notes represented by the Rule 144A Global Note or Regulation S Global Note, as applicable, such instructions to contain information regarding the Agent Member account to be credited with such increase,

then the Trustee shall cancel such Definitive Note and cause, or direct the Notes Custodian to cause, in accordance with the standing instructions and procedures of the Depository and the Notes Custodian, the aggregate principal amount of Notes represented by the Rule 144A Global Note or Regulation S Global Note, as applicable, to be increased by the aggregate principal amount of the Definitive Note to be exchanged and shall credit or cause to be credited to the account of the Person specified in such instructions a beneficial interest in the Rule 144A Global Note or Regulation S Global Note, as applicable, equal to the principal amount of the Definitive Note so canceled. If no Rule 144A Global Notes or Regulation S Global Notes, as applicable, are then Outstanding, the Issuer shall issue and the Trustee shall authenticate, upon written order of the Issuer in the form of an Officer's Certificate of the Issuer, a new Rule 144A Global Note or Regulation S Global Note, as applicable, in the appropriate principal amount.

(c) Transfer and Exchange of Global Notes.

(i) The transfer and exchange of Global Notes or beneficial interests therein shall be effected through the Depository, in accordance with this Indenture (including applicable restrictions on transfer set forth herein, if any) and the procedures of the Depository therefor. A transferor of a beneficial interest in a Global Note shall deliver to the Note Registrar a written order given in accordance with the Depository's procedures containing information regarding the participant account of the Depository to be credited with a beneficial interest in the Global Note. The Note Registrar shall, in accordance with such instructions instruct the Depository to credit to the account of the Person specified in such instructions a beneficial interest in the Global Note and to debit the account of the Person making the transfer the beneficial interest in the Global Note being transferred. The Note Registrar shall have no responsibilities with respect to transfers of beneficial interests within a single Global Note.

(ii) If the proposed transfer is a transfer of a beneficial interest in one Global Note to a beneficial interest in another Global Note, the Note Registrar shall reflect on its books and records the date and an increase in the principal amount of the Global Note to which such interest is being transferred in an amount equal to the principal amount of the interest to be so transferred, and the Note Registrar shall reflect on its books and records the date and a corresponding decrease in the principal amount of the Global Note from which such interest is being transferred.

(iii) Notwithstanding any other provisions of this Appendix (other than the provisions set forth in Section 2.4), a Global Note may not be transferred as a whole except by the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository.

(iv) In the event that a Global Note is exchanged for a Definitive Note pursuant to Section 2.4 of this Appendix, such Notes may be exchanged only in accordance with such procedures as are substantially consistent with the provisions of this Section 2.3 (including the certification requirements set forth on the reverse of the Notes intended to ensure that such transfers comply with Rule 144A, Regulation S or another applicable exemption under the Securities Act, as the case may be) and such other procedures as may from time to time be adopted by the Issuer.

(v) During the Distribution Compliance Period, beneficial ownership interests in Regulation S Global Notes may only be sold, pledged or transferred (i) to the Issuer, (ii) in an offshore transaction in accordance with Regulation S or (iii) pursuant to an effective registration statement under the Securities Act, in each case in accordance with any applicable securities laws of any State of the United States.

(d) Legend. Each Note certificate evidencing the Global Notes (and all Notes issued in exchange therefor or in substitution thereof) shall bear a legend in substantially the following form, which legend shall be removed at the written request of a Holder after the one year period described therein, in the case of Notes sold in reliance on Rule 144A, or the 40 day period described therein, in the case of Notes sold in reliance on Regulation S:

THE SECURITY (OR ITS PREDECESSOR) EVIDENCED HEREBY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER SECTION 5 OF THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THE SECURITY EVIDENCED HEREBY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THE SECURITY EVIDENCED HEREBY IS HEREBY NOTIFIED THAT THE SELLER MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER. THE HOLDER OF THE SECURITY EVIDENCED HEREBY AGREES FOR THE BENEFIT OF THE ISSUER THAT (A) FOR A PERIOD OF [IN THE CASE OF 144A NOTES: ONE YEAR][IN THE CASE OF REGULATION S NOTES: 40 DAYS] AFTER THE LATER OF THE ORIGINAL ISSUE DATE OF THIS SECURITY AND THE LAST DATE ON WHICH

THE ISSUER OR ANY OF ITS AFFILIATES WAS THE OWNER OF THIS SECURITY, SUCH SECURITY MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (1)(a) TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A UNDER THE SECURITIES ACT, (b) OUTSIDE THE UNITED STATES TO A NON-U.S. PERSON IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, (c) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144 UNDER THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL, CERTIFICATES OR OTHER INFORMATION ACCEPTABLE TO THE ISSUER IF THE ISSUER SO REQUESTS) OR (d) IN ACCORDANCE WITH ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL, CERTIFICATES OR OTHER INFORMATION ACCEPTABLE TO THE ISSUER IF THE ISSUER SO REQUESTS), (2) TO THE ISSUER OR (3) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT AND, IN EACH CASE, IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR ANY OTHER APPLICABLE JURISDICTION AND (B) THE HOLDER WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY ANY PURCHASER OF THE SECURITY EVIDENCED HEREBY OF THE RESALE RESTRICTIONS SET FORTH IN CLAUSE (A) ABOVE. NO REPRESENTATION CAN BE MADE AS TO THE AVAILABILITY OF THE EXEMPTION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT FOR RESALE OF THE SECURITY EVIDENCED HEREBY. THE HOLDER HEREOF, BY PURCHASING THIS SECURITY, REPRESENTS AND AGREES FOR THE BENEFIT OF THE ISSUER THAT IT IS (1) A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT OR (2) NOT A U.S. PERSON AND IS OUTSIDE OF THE UNITED STATES WITHIN THE MEANING OF (OR AN ACCOUNT SATISFYING THE REQUIREMENTS OF PARAGRAPH (k)(2)(i) OF RULE 902 UNDER) REGULATION S UNDER THE SECURITIES ACT. [IN THE CASE OF REGULATION S NOTES: BY ITS ACQUISITION HEREOF, THE HOLDER HEREOF REPRESENTS THAT IT IS NOT A U.S. PERSON, NOR IS IT PURCHASING FOR THE ACCOUNT OF A U.S. PERSON, AND IS ACQUIRING THIS SECURITY IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH REGULATION S UNDER THE SECURITIES ACT.]

Each Definitive Note shall also bear the following additional legend:

IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE REGISTRAR AND TRANSFER AGENT SUCH CERTIFICATES AND OTHER INFORMATION AS SUCH TRANSFER AGENT MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.

(e) Cancellation or Adjustment of Global Note. At such time as all beneficial interests in a Global Note have either been exchanged for Definitive Notes, redeemed, purchased or canceled, such Global Note shall be returned to the Depository for cancellation or retained and canceled by the Trustee in accordance with its customary procedures. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for certificated Notes, redeemed, purchased or canceled, the principal amount of Notes represented by such Global Note shall be reduced and an adjustment shall be made on the books and records of the Trustee (if it is then the Notes Custodian for such Global Note) with respect to such Global Note, by the Trustee or the Notes Custodian, to reflect such reduction.

(f) No Obligation of the Trustee.

(i) The Trustee shall have no responsibility or obligation to any beneficial owner of a Global Note, a member of, or a participant in the Depository or other Person with respect to the accuracy of the records of the Depository or its nominee or of any participant or member thereof, with respect to any ownership interest in the Notes or with respect to the delivery to any participant, member, beneficial owner or other Person (other than the Depository) of any notice (including any notice of redemption) or the payment of any amount, under or with respect to such Notes. All notices and communications to be given to the Holders and all payments to be made to Holders under the Notes shall be given or made only to or upon the order of the registered Holders (which shall be the Depository or its nominee in the case of a Global Note). The rights of beneficial owners in any Global Note shall be exercised only through the Depository subject to the applicable rules and procedures of the Depository. The Trustee may rely and shall be fully protected in relying upon information furnished by the Depository with respect to its members, participants and any beneficial owners.

(ii) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among the Depository participants, members or beneficial owners in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof. Neither the Trustee nor any Agent shall have any responsibility for any actions taken or not taken by the Depository.

2.4 Definitive Notes.

(a) A Global Note deposited with the Depository or with the Trustee as Notes Custodian for the Depository pursuant to Section 2.1 shall be transferred to the beneficial owners thereof in the form of registered Definitive Notes in an aggregate principal amount equal to the principal amount of such Global Note, in exchange for such Global Note, only if such transfer complies with Section 2.3 hereof and (i) the Depository notifies the Issuer that it is unwilling or unable to continue as Depository for such Global Note or if at any time such Depository ceases to be a "clearing agency" registered under the Exchange Act and, in each case, a successor depository is not appointed by the Issuer within 120 days of such notice, or (ii) an Event of Default has occurred or is continuing and the owner of a beneficial interest in a Global Note requests such exchange in writing delivered through the Depository.

(b) Any Global Note that is transferable to the beneficial owners thereof pursuant to this Section 2.4 shall be surrendered by the Depository to the Trustee located at its principal Corporate Trust Office, to be so transferred, in whole or from time to time in part, without charge, and the Trustee shall authenticate and deliver, upon such transfer of each portion of such Global Note, an equal aggregate principal amount of Definitive Notes of authorized denominations. Any portion of a Global Note

transferred pursuant to this Section 2.4 shall be executed, authenticated and delivered only in denominations of $2,000 principal amount and any integral multiple of $1,000 in excess thereof and registered in such names as the Depository shall direct. Any Definitive Note delivered in exchange for an interest in the Transfer Restricted Note shall bear the applicable restricted notes legend and definitive notes legend set forth in Exhibit 1 hereto.

(c) The registered Holder of a Global Note shall be entitled to grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action which a Holder is entitled to take under this Indenture or the Notes.

(d) In the event of the occurrence of one of the events specified in Section 2.4(a) hereof, the Issuer shall promptly make available to the Trustee a reasonable supply of Definitive Notes in definitive, fully registered form without interest coupons. In the event that such Definitive Notes are not issued, the Issuer expressly acknowledges, with respect to the right of any Holder to pursue a remedy pursuant to this Indenture, including pursuant to Section 5.07, the right of any beneficial owner of Notes to pursue such remedy with respect to the portion of the Global Note that represents such beneficial owner's Notes as if such Definitive Notes had been issued.

EXHIBIT 1
to Annex I

[FORM OF FACE OF INITIAL NOTE]
[Global Notes Legend]

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO., OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO THE DEPOSITORY, TO NOMINEES OF THE DEPOSITORY OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF.

[Restricted Notes Legend]

THE SECURITY (OR ITS PREDECESSOR) EVIDENCED HEREBY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER SECTION 5 OF THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THE SECURITY EVIDENCED HEREBY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THE SECURITY EVIDENCED HEREBY IS HEREBY NOTIFIED THAT THE SELLER MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER. THE HOLDER OF THE SECURITY EVIDENCED HEREBY AGREES FOR THE BENEFIT OF THE ISSUER THAT (A) FOR A PERIOD OF [IN THE CASE OF 144A NOTES: ONE YEAR][IN THE CASE OF REGULATION S NOTES: 40 DAYS] AFTER THE LATER OF THE ORIGINAL ISSUE DATE OF THIS SECURITY AND THE LAST DATE ON WHICH THE ISSUER OR ANY OF ITS AFFILIATES WAS THE OWNER OF THIS SECURITY, SUCH SECURITY MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (1)(a) TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A UNDER THE SECURITIES ACT, (b) OUTSIDE THE UNITED STATES TO A NON-U.S. PERSON IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, (c) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144 UNDER THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL, CERTIFICATES OR OTHER INFORMATION ACCEPTABLE TO THE ISSUER IF THE ISSUER SO REQUESTS) OR (d) IN ACCORDANCE WITH ANOTHER EXEMPTION FROM THE

REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL, CERTIFICATES OR OTHER INFORMATION ACCEPTABLE TO THE ISSUER IF THE ISSUER SO REQUESTS), (2) TO THE ISSUER OR (3) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT AND, IN EACH CASE, IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR ANY OTHER APPLICABLE JURISDICTION AND (B) THE HOLDER WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY ANY PURCHASER OF THE SECURITY EVIDENCED HEREBY OF THE RESALE RESTRICTIONS SET FORTH IN CLAUSE (A) ABOVE. NO REPRESENTATION CAN BE MADE AS TO THE AVAILABILITY OF THE EXEMPTION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT FOR RESALE OF THE SECURITY EVIDENCED HEREBY. THE HOLDER HEREOF, BY PURCHASING THIS SECURITY, REPRESENTS AND AGREES FOR THE BENEFIT OF THE ISSUER THAT IT IS (1) A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT OR (2) NOT A U.S. PERSON AND IS OUTSIDE OF THE UNITED STATES WITHIN THE MEANING OF (OR AN ACCOUNT SATISFYING THE REQUIREMENTS OF PARAGRAPH (k)(2)(i) OF RULE 902 UNDER) REGULATION S UNDER THE SECURITIES ACT. [IN THE CASE OF REGULATION S NOTES: BY ITS ACQUISITION HEREOF, THE HOLDER HEREOF REPRESENTS THAT IT IS NOT A U.S. PERSON, NOR IS IT PURCHASING FOR THE ACCOUNT OF A U.S. PERSON, AND IS ACQUIRING THIS SECURITY IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH REGULATION S UNDER THE SECURITIES ACT.]

[Definitive Notes Legend]

IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE REGISTRAR AND TRANSFER AGENT SUCH CERTIFICATES AND OTHER INFORMATION AS SUCH TRANSFER AGENT MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.

4.500% Senior Secured Note due 2029

No. $_____

CUSIP No. [_____]

WW International, Inc. (the "Issuer"), a Virginia corporation, promises to pay to [_____][1], or registered assigns, the principal sum [of _____ U.S. dollars][2] on April 15, 2029.

Interest Payment Dates: April 15 and October 15 (commencing on [_____]).

Regular Record Dates: April 1 and October 1.

Additional provisions of this Note are set forth on the other side of this Note.

1 For Global Notes insert: Cede & Co.

2 For Global Notes insert: set forth on the Schedule of Increases or Decreases in Global Note attached hereto

Dated:

WW INTERNATIONAL, INC.

By: _____
Name:
Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

Dated: _____

This is one of the Notes referred to in the within-mentioned Indenture.

THE BANK OF NEW YORK MELLON, as Trustee

By: _____
Authorized Signatory

1. Principal and Interest.

The Issuer will pay the principal of this Note on April 15, 2029.

The Issuer promises to pay interest on the principal amount of this Note on each Interest Payment Date, as set forth below, at the rate of 4.500% per annum.

Interest will be payable semi-annually in arrears (to the Holders of record at the close of business (if applicable) on the April 1 or October 1 (whether or not a Business Day) immediately preceding the Interest Payment Date) on each Interest Payment Date, commencing [_____].

Interest on this Note will accrue from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from [_____]; *provided* that, if there is no existing default in the payment of interest and if this Note is authenticated between a Regular Record Date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such Interest Payment Date. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

The Issuer shall pay interest on overdue principal and premium, if any, and interest on overdue installments of interest, to the extent lawful, at a rate per annum equal to the rate of interest borne by the Notes.

2. Method of Payment.

The Issuer will pay interest (except Defaulted Interest) on the principal amount of the Notes on each April 15 and October 15 (commencing on [_____]) to the Persons who are Holders (as reflected in the Note Register at the close of business (if applicable) on the April 1 or October 1 (whether or not a Business Day) immediately preceding the Interest Payment Date), in each case, even if the Note is cancelled on registration of transfer or registration of exchange after such Regular Record Date; *provided* that, with respect to the payment of principal or premium, if any, the Issuer will make payment to the Holder that surrenders this Note to the Paying Agent on or after the date such principal or premium is due and payable.

The Issuer will pay principal (and premium, if any) and interest in U.S. dollars. However, the Issuer may pay principal (and premium, if any) and interest by its check payable in such money. The Issuer may pay interest on the Notes either (a) by mailing a check for such interest to a Holder's registered address (as reflected in the Note Register) or (b) subject to the provisions of the Indenture, by wire transfer to an account located in the United States maintained by the payee. If a payment date is a date other than a Business Day at a place of payment, payment may be made at that place on the next succeeding day that is a Business Day and no interest shall accrue for the intervening period.

3. Paying Agent and Note Registrar.

The Issuer initially appoints The Bank of New York Mellon, in New York as Paying Agent and Note Registrar. The Issuer may change any Paying Agent or Note Registrar upon written notice thereto. The Issuer or any of its Subsidiaries may act as Paying Agent, Note Registrar or co-registrar.

4. Indenture.

The Issuer issued the Notes under an Indenture dated as of April 13, 2021 (the "Indenture"), among the Issuer, the Guarantors, the Trustee and the Notes Collateral Agent. Capitalized terms herein are used as defined in the Indenture unless otherwise indicated. The terms of the Notes include those stated in the Indenture. The Notes are subject to all such terms, and Holders are referred to the Indenture for a statement of all such terms. To the extent permitted by applicable law, in the event of any inconsistency between the terms of this Note and the terms of the Indenture, the terms of the Indenture shall control.

The Notes are secured senior obligations of the Issuer. The Indenture does not limit the aggregate principal amount of the Notes.

5. Redemption.

Optional Redemption. At any time prior to April 15, 2024, the Issuer may, at its option and on one or more occasions, redeem all or a part of the Notes, upon notice as described in Section 11.06 of the Indenture, at a Redemption Price equal to 100% of the principal amount of the Notes redeemed plus the Applicable Premium as of, and accrued and unpaid interest, if any, to, but excluding, the Redemption Date, subject to the right of Holders of record on the relevant Regular Record Date to receive interest due on the relevant Interest Payment Date falling on or prior to the Redemption Date.

On and after April 15, 2024, the Issuer may, at its option and on one or more occasions, redeem the Notes, in whole or in part, upon notice as described in Section 11.06 of the Indenture, at the Redemption Prices (expressed as percentages of principal amount of the Notes to be redeemed) set forth below, plus accrued and unpaid interest, if any, to, but excluding, the applicable Redemption Date, subject to the right of Holders of record on the relevant Regular Record Date to receive interest due on the relevant Interest Payment Date falling on or prior to the Redemption Date, if redeemed during the twelve-month period beginning on December 1 of each of the years indicated below:

Year	Percentage
2024	102.250%
2025	101.125%
2026 and thereafter	100.000%

In addition, prior to April 15, 2024, the Issuer may, at its option, upon notice as described in Section 11.06 of the Indenture, on one or more occasions redeem up to 40% of the aggregate principal amount of Notes (including Additional Notes) issued under the Indenture at a Redemption Price (as calculated by the Issuer) equal to (i) 104.500% of the aggregate principal amount thereof, with an amount equal to or less than the net cash proceeds from one or more Equity Offerings to the extent such net cash proceeds are received by or contributed to the Issuer plus (ii) accrued and unpaid interest thereon, if any, to, but excluding, the applicable Redemption Date, subject to the right of Holders of record on the relevant Regular Record Date to receive interest due on the relevant Interest Payment Date falling on or prior to the Redemption Date; *provided* that (a) at least 50% of the sum of the aggregate principal amount of Notes originally issued under the Indenture on the Issue Date (but excluding any Additional Notes issued under the Indenture after the Issue Date) remains Outstanding immediately after the occurrence of each such redemption and (b) each such redemption occurs within 180 days of the date of closing of such Equity Offering.

In addition, during any twelve-month period commencing on or after the Issue Date and ending prior to April 15, 2024, the Issuer may redeem in each twelve-month period up to 10% of the aggregate principal amount of the Notes (including Additional Notes) issued under the Indenture, upon notice as described under Article Eleven of the Indenture at a purchase price equal to 103.000% of the aggregate principal amount of the Notes to be redeemed, plus accrued and unpaid interest thereon, if any, to, but excluding, the applicable Redemption Date, subject to the right of Holders of record of Notes on the relevant record date to receive interest due on the relevant interest payment date falling on or prior to the Redemption Date.

In connection with any tender offer for the Notes, if Holders of not less than 90% in aggregate principal amount of the Outstanding Notes validly tender and do not withdraw such Notes in such tender offer and the Issuer, or any third party approved in writing by the Issuer making such tender offer in lieu of the Issuer, purchases all of the Notes validly tendered and not withdrawn by such Holders, the Issuer or such third party will have the right upon not less than 10 nor more than 60 days' prior notice, given not more than 30 days following such purchase date, to redeem (with respect to the Issuer) or purchase (with respect to a third party) all Notes that remain Outstanding following such purchase at a price equal to the price paid to each other Holder in such tender offer (which may be less than par and shall exclude any early tender premium or similar premium and any accrued and unpaid interest paid to any Holder in such tender offer) plus accrued and unpaid interest, if any, thereon, to, but excluding, the Redemption Date or purchase date, subject to the right of Holders of record of the Notes on the relevant record date to receive interest due on the relevant Interest Payment Date falling on or prior to the Redemption Date or purchase date.

6. Repurchase upon a Change of Control and Asset Sales.

Upon the occurrence of (a) a Change of Control, the Holders will have the right to require that the Issuer purchase such Holder's Outstanding Notes, in whole or in part, at a purchase price of 101% of the aggregate principal amount thereof, plus accrued and unpaid interest, if any, to, but excluding, the date of purchase and (b) Asset Sales, the Issuer may be obligated to make offers to purchase Notes and Senior Indebtedness of the Issuer with a portion of the Net Proceeds of such Asset Sales at a Redemption Price of 100% of the aggregate principal amount thereof plus accrued and unpaid interest, if any, to, but excluding, the date of purchase.

7. Denominations; Transfer; Exchange.

The Notes are in registered form without coupons in denominations of $2,000 principal amount and integral multiples of $1,000 in excess thereof. A Holder may transfer or exchange Notes in accordance with the Indenture. The Note Registrar and the Issuer may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and to pay any taxes and fees required by law or permitted by the Indenture. The Note Registrar and the Issuer need not register the transfer or exchange of any Notes selected for redemption (except, in the case of a Note to be redeemed in part, the portion of the Note not to be redeemed) or any Notes tendered (and not withdrawn) for repurchase in connection with a Change of Control Offer, an Asset Sale Offer or other tender offer. Also, the Issuer shall not be required to register the transfer or exchange of any registered Definitive Notes for a period of 15 days preceding (a) the record date for any payment of interest on the applicable Notes, (b) any date fixed for redemption of the applicable Notes or (c) the date fixed for selection of the applicable Notes to be redeemed in part. In addition, the Issuer shall not be required to register the transfer or exchange of any Notes selected for redemption.

8. Persons Deemed Owners.

A registered Holder may be treated as the owner of a Note for all purposes.

9. Unclaimed Money.

If money for the payment of principal (premium, if any) or interest remains unclaimed for two years, the Trustee and the Paying Agent will pay the money back to the Issuer at its written request. After that, Holders entitled to the money must look to the Issuer for payment, unless an abandoned property law designates another Person, and all liability of the Trustee and such Paying Agent with respect to such money shall cease.

10. Discharge and Defeasance Prior to Redemption or Maturity.

If the Issuer irrevocably deposits, or causes to be deposited, with the Trustee money or U.S. Government Obligations sufficient to pay the then outstanding principal of (premium, if any) and accrued but unpaid interest on the Notes to the Redemption Date or Stated Maturity (without further investment or reinvestment thereon), the Issuer will be discharged from its obligations under the Indenture and the Notes, except in certain circumstances for certain covenants thereof, or will be discharged from certain covenants set forth in the Indenture.

11. Amendment; Supplement; Waiver.

Subject to certain exceptions, the Indenture, the Notes or any Note Guarantee may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount of Outstanding Notes, and any existing Default or Event of Default or compliance with any provision of the Indenture, the Notes or any Note Guarantees may be waived with the consent of the Holders of at least a majority in aggregate principal amount of Outstanding Notes, other than Notes beneficially owned by the Issuer or its Affiliates. Without notice to or the consent of any Holder, the parties thereto may amend or supplement the Indenture, the Notes or the Note Guarantees to, among other things, cure any ambiguity, omission, mistake, defect or inconsistency and make any change that does not adversely affect the legal rights under the Indenture of any Holder in any material respect.

12. Restrictive Covenants.

The Indenture contains certain covenants, including covenants with respect to the following matters: (i) Restricted Payments; (ii) incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock; (iii) Liens; (iv) transactions with Affiliates; (v) dividend and other payment restrictions affecting Restricted Subsidiaries; (vi) guarantees of Indebtedness by Restricted Subsidiaries; (vii) merger and certain transfers of assets; (viii) purchase of Notes upon a Change in Control; and (ix) disposition of proceeds of Asset Sales. Within 120 days after the end of each fiscal year, the Issuer must report to the Trustee on compliance with such limitations.

13. Successor Persons.

When a successor Person or other entity assumes all the obligations of its predecessor under the Notes or the Note Guarantees and the Indenture, the predecessor Person will be released from those obligations.

14. Remedies for Events of Default.

If an Event of Default, as defined in the Indenture, occurs and is continuing, the Trustee or the Holders of at least 30% in aggregate principal amount of the Outstanding Notes may declare the principal, premium, if any, interest and any other monetary obligations on all Outstanding Notes to be due and payable immediately by a notice in writing to the Issuer (and to the Trustee if given by Holders). Subject to the provisions of the Indenture relating to the duties of the Trustee, in case an Event of Default occurs and is continuing, the Trustee shall be under no obligation to exercise any rights or powers under the Indenture at the request or direction of any of the Holders unless such Holders have offered indemnity or security against any loss, liability or expense reasonably satisfactory to the Trustee. Subject to certain restrictions, the Holders of a majority in aggregate principal amount of the Outstanding Notes are given the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. The Trustee, however, may refuse to follow any direction that conflicts with law or the Indenture or that the Trustee determines is unduly prejudicial to the rights of any other Holder of a Note or that would involve the Trustee in personal liability.

15. Note Guarantees.

The Issuer's obligations under the Notes will be fully, irrevocably and unconditionally guaranteed on a senior secured basis, to the extent set forth in the Indenture, by each of the Guarantors.

16. Trustee Dealings with Issuer.

The Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Notes and may make loans to, accept deposits from, perform services for, and otherwise deal with, the Issuer and its Affiliates as if it were not the Trustee.

17. Authentication.

This Note shall not be valid until the Trustee manually, electronically or via facsimile signs the certificate of authentication on the other side of this Note.

18. Abbreviations.

Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian) and U/G/M/A (= Uniform Gifts to Minors Act).

19. CUSIP Numbers.

Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Issuer has caused CUSIP numbers to be printed on the Notes and the Trustee may use CUSIP numbers in notices as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice and reliance may be placed only on the other identification numbers placed thereon.

20. Security.

The Notes and the Note Guarantees will be secured by the Collateral on the terms and subject to the conditions set forth in the Indenture and the Security Documents. The Trustee and the Notes Collateral Agent, as the case may be, hold the Collateral in trust for the benefit of the Secured Notes

Secured Parties, in each case pursuant to the Security Documents and the Intercreditor Agreements. Each Holder, by accepting this Note, consents and agrees to the terms of the Security Documents (including the provisions providing for the foreclosure and release of Collateral) and the Intercreditor Agreements as the same may be in effect or may be amended from time to time in accordance with their terms and the Indenture and authorizes and directs the Notes Collateral Agent to enter into the Security Documents and the Intercreditor Agreements on the Issue Date, and at any time after Issue Date, as applicable, and to perform its obligations and exercise its rights thereunder in accordance therewith.

21. Governing Law.

THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. THE ISSUER AGREES TO SUBMIT TO THE JURISDICTION OF ANY UNITED STATES FEDERAL OR STATE COURT LOCATED IN THE BOROUGH OF MANHATTAN, IN THE CITY OF NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS NOTE OR THE INDENTURE.

The Issuer will furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to WW International, Inc., 675 Avenue of the Americas, 6th Floor, New York, New York 10010.

Capitalized terms used herein but not defined herein shall have the meanings given to such terms in the Indenture.

ASSIGNMENT FORM

To assign this Note, fill in the form below:

I or we assign and transfer this Note to

(Print or type assignee's name, address and zip code)

(Insert assignee's soc. sec. or tax I.D. No.)

and irrevocably appoint _____ agent to transfer this Note on the books of the Issuer. The agent may substitute another to act for him.

Date: _____ Your Signature: _____

Sign exactly as your name appears on the other side of this Note.

In connection with any transfer of any of the Notes evidenced by this certificate occurring prior to the date that is one year after the later of the date of original issuance of such Notes and the last date, if any, on which such Notes were owned by the Issuer or any "Affiliate" of the Issuer within the meaning of the Securities Act of 1933, as amended (the "Securities Act"), the undersigned confirms that such Notes are being transferred in accordance with its terms:

CHECK ONE BOX BELOW

☐ to the Issuer; or

(1) ☐ pursuant to an effective registration statement under the Securities Act; or

(2) ☐ to a Person reasonably believed to be a "qualified institutional buyer" (as defined in Rule 144A under the Securities Act) that purchases for its own account or for the account of a qualified institutional buyer to whom notice is given that such transfer is being made in reliance on Rule 144A, in each case pursuant to and in compliance with Rule 144A under the Securities Act; or

(3) ☐ outside the United States in an offshore transaction within the meaning of Regulation S under the Securities Act in compliance with Rule 904 under the Securities Act.

Unless one of the boxes is checked, the Trustee will refuse to register any of the Notes evidenced by this certificate in the name of any person other than the registered Holder thereof.

_____
Signature

Signature Guarantee:

_____ _____

Signature must be guaranteed Signature

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Note Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Note Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

TO BE COMPLETED BY PURCHASER IF (2) ABOVE IS CHECKED.

The undersigned represents and warrants that it is purchasing this Note for its own account or an account with respect to which it exercises sole investment discretion and that it and any such account is a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act, and is aware that the sale to it is being made in reliance on Rule 144A and acknowledges that it has received such information regarding the Issuer as the undersigned has requested pursuant to Rule 144A or has determined not to request such information and that it is aware that the transferor is relying upon the undersigned's foregoing representations in order to claim the exemption from registration provided by Rule 144A.

Dated: _____

_____

Notice: To be executed by
an executive officer

[TO BE ATTACHED TO GLOBAL NOTES]

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTE

The initial principal amount of this Global Note is $_____. The following increases or decreases in this Global Note have been made:

Date of Increase or Decrease	Amount of decrease in Principal amount of this Global Note	Amount of increase in Principal amount of this Global Note	Principal amount of this Global Note following such decrease or increase	Signature of authorized signatory of Trustee or Notes Custodian

OPTION OF HOLDER TO ELECT PURCHASE

☐ If you want to elect to have this Note purchased by the Issuer pursuant to Section 10.16 or 10.17 of the Indenture, check the box.

☐ If you want to elect to have only part of this Note purchased by the Issuer pursuant to Section 10.16 or 10.17 of the Indenture, state the amount in principal amount: $

($1,000 or integral multiples thereof, provided that the unpurchased portion of a Note must be in a minimum principal amount of $2,000)

Date: _____ Your Signature: _____

(Sign exactly as your name appears on the other side of this Note)

Signature Guarantee: _____

(Signature must be guaranteed)

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Note Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Note Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

EXHIBIT A

FORM OF SUPPLEMENTAL INDENTURE
TO BE DELIVERED BY SUBSEQUENT GUARANTORS

SUPPLEMENTAL INDENTURE (this "Supplemental Indenture"), dated as of _____, 202__, by _____ (the "Guaranteeing Subsidiary"), a subsidiary of the Issuer.

W I T N E S S E T H

WHEREAS, the Issuer, the Guarantors and The Bank of New York Mellon, as trustee (the "Trustee") and notes collateral agent, have heretofore executed and delivered an indenture (the "Indenture"), dated as of April 13, 2021 providing for the issuance of 4.500% Senior Secured Notes due 2029 (the "Notes"); and

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary shall unconditionally guarantee all of the Issuer's Obligations under the Notes and the Indenture on the terms and conditions set forth herein (the "Guarantee").

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary covenants and agrees for the equal and ratable benefit of the Holders as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

2. AGREEMENT TO GUARANTEE. The Guaranteeing Subsidiary hereby agrees to provide an unconditional Guarantee on the terms and subject to the conditions set forth in the Indenture including but not limited to Article Twelve thereof.

3. NO RECOURSE AGAINST OTHERS. No past, present or future director, officer, employee, incorporator, stockholder or agent of the Guaranteeing Subsidiary, as such, shall have any liability for any obligations of the Issuer or any Guaranteeing Subsidiary under the Notes, any Guarantees, the Indenture or this Supplemental Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of the Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. Such waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the SEC that such a waiver is against public policy.

4. GOVERNING LAW. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. THE PART[Y][IES] HERETO AGREE[S] TO SUBMIT TO THE JURISDICTION OF ANY UNITED STATES FEDERAL OR STATE COURT LOCATED IN THE BOROUGH OF MANHATTAN, IN THE CITY OF NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS SUPPLEMENTAL INDENTURE.

5. COUNTERPARTS. The part[y][ies] may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. The exchange of copies of the Supplemental Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of the Supplemental Indenture as to the part[y][ies] hereto and may be used in lieu of the original Supplemental Indenture for all purposes. Signatures of the part[y][ies] hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes

6. EFFECT OF HEADINGS. The Section headings herein are for convenience or reference only and are not intended to be considered a part hereof and shall not affect the construction hereof.

7. THE TRUSTEE. The Trustee is an express and intended third party beneficiary hereof and is entitled to the rights and benefits hereunder and may enforce this Agreement as if it were a party hereto. This provision cannot be amended without the consent of the Trustee. The Trustee makes no representations as to the validity or sufficiency of this Supplemental Indenture. The recitals and statements herein are those of the Guaranteeing Subsidiary and not of the Trustee.

IN WITNESS WHEREOF, the part[y][ies] hereto have caused this Supplemental Indenture to be duly executed, all as of the date first above written.

[GUARANTEEING SUBSIDIARY]

By: _____
Name:
Title:

THE BANK OF NEW YORK MELLON, as Trustee

By: _____
Name:
Title:

EXHIBIT B

INCUMBENCY CERTIFICATE

The undersigned, _____, being the _____ of _____ (the "Issuer") does hereby certify that the individuals listed below are qualified and acting officers of the Issuer as set forth in the right column opposite their respective names and the signatures appearing in the extreme right column opposite the name of each such officer is a true specimen of the genuine signature of such officer and such individuals have the authority to execute documents to be delivered to, or upon the request of, The Bank of New York Mellon, as Trustee under the Indenture dated as of April 13, 2021, by and among the Issuer, the Guarantors party thereto and The Bank of New York Mellon, as Trustee.

Name	Title:	Signature

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Certificate as of the ____ day of _____, 20__.

_____
Name:
Title:

EXHIBIT C

FORM OF EQUAL PRIORITY INTERCREDITOR AGREEMENT

[See attached.]

EXHIBIT D

FORM OF JUNIOR PRIORITY INTERCREDITOR AGREEMENT

[See attached.]

Exhibit 10.1

Execution Version

Published CUSIP Number:	92941PAA1
Revolving Loan CUSIP Number:	92941PAB9
Initial Term Loan CUSIP Number:	92941PAC7

CREDIT AGREEMENT
dated as of
April 13, 2021

among

WW INTERNATIONAL, INC.,
as Borrower,

The Lenders Party Hereto

and

BANK OF AMERICA, N.A.,
as the Administrative Agent and an Issuing Bank

BANK OF AMERICA, N.A.,
GOLDMAN SACHS BANK USA, JPMORGAN CHASE BANK, N.A.,
KEYBANC CAPITAL MARKETS INC.
and
TRUIST SECURITIES, INC.,
as Joint Lead Arrangers and Joint Bookrunners,

GOLDMAN SACHS BANK USA
and
JPMORGAN CHASE BANK, N.A.,
as Co-Syndication Agents,

KEYBANC CAPITAL MARKETS INC.
and
TRUIST BANK,
as Co-Documentation Agents

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SCHEDULES:

EXHIBITS:

CREDIT AGREEMENT dated as of April 13, 2021 (this "**Agreement**"), among WW INTERNATIONAL, INC., a Virginia corporation (the "**Borrower**"; as hereinafter further defined), the LENDERS (as hereinafter defined) party hereto and BANK OF AMERICA, N.A., as the Administrative Agent and an Issuing Bank.

The parties hereto agree as follows:

ARTICLE I

Definitions

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

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

"**Acceptable Discount**" has the meaning assigned to such term in **Section 2.11(a)(ii)(D)(2)**.

"**Acceptable Prepayment Amount**" has the meaning assigned to such term in **Section 2.11(a)(ii)(D)(2)**.

"**Acceptable Reinvestment Commitment**" means a binding commitment of the Borrower or any Restricted Subsidiary entered into at any time prior to the end of the Reinvestment Period to reinvest the proceeds of an Asset Sale Prepayment Event or Casualty Prepayment Event.

"**Acceptance and Prepayment Notice**" means a written notice from the Borrower accepting a Solicited Discounted Prepayment Offer to make a Discounted Term Loan Prepayment at the Acceptable Discount specified therein pursuant to **Section 2.11(a)(ii)(D)** substantially in the form of **Exhibit N**.

"**Acceptance Date**" has the meaning assigned to such term in **Section 2.11(a)(ii)(D)(2)**.

"**Accounting Change**" means any change in accounting principles or the application thereof required by the promulgation of any rule, regulation, pronouncement or opinion by the Financial Accounting Standards Board of the American Institute of Certified Public Accountants or, if applicable, the SEC.

"**Acquired EBITDA**" means, with respect to any Acquired Entity or Business or any Converted Restricted Subsidiary for any period, the amount for such period of Consolidated EBITDA of such Pro Forma Entity (determined as if references to the Borrower and the Restricted Subsidiaries in the definition of the term "Consolidated EBITDA" were references to such Pro Forma Entity and its subsidiaries that will become Restricted Subsidiaries), all as determined on a consolidated basis for such Pro Forma Entity in accordance with GAAP.

"**Acquired Entity or Business**" has the meaning assigned to such term in the definition of the term "Consolidated EBITDA."

"**Acquired Person**" has the meaning provided in **Section 6.01(i)(i)(D)**.

"**Acquisition"** means any acquisition by the Borrower or any Restricted Subsidiary, whether by purchase, merger, consolidation, contribution or otherwise, of (a) at least a majority of the assets or property and/or liabilities (or any other substantial part for which financial statements or other financial information is available), or a business line, product line, unit or division of, any other Person or (b) the Equity Interest of any other Person such that such other Person becomes a Restricted Subsidiary.

"**Additional ECF Reduction Amounts**" means the sum, without duplication, of:

(a) without duplication of amounts deducted pursuant to clause (f) below in prior fiscal years, the amount of Capital Expenditures or acquisitions of Intellectual Property made in cash or accrued during such period, except to the extent that such Capital Expenditures or acquisitions of Intellectual Property were financed by the Incurrence of long-term Indebtedness by, or the issuance of Equity Interests by, or the making of capital contributions to, the Borrower or any of the Restricted Subsidiaries or using the proceeds of any Disposition outside the ordinary course of business;

(b) cash payments by the Borrower and the Restricted Subsidiaries during such period in respect of purchase price holdbacks, earn-out obligations, or long-term liabilities of the Borrower and the Restricted Subsidiaries other than Indebtedness, except to the extent that such payments were financed by the Incurrence of long-term Indebtedness by, or the issuance of Equity Interests by, or the making of capital contributions to, the Borrower or any of the Restricted Subsidiaries or using the proceeds of any Disposition outside the ordinary course of business;

(c) without duplication of amounts deducted pursuant to clause (f) below in prior fiscal years, the amount of Investments made in cash (other than Investments made pursuant to **Sections 6.04(b), (c), (d), (f), (j), (l), (r), (x), (bb), (cc), (dd), (ff) and (hh)**) during such period, except to the extent that such Investments were financed by the Incurrence of long-term Indebtedness by, or the issuance of Equity Interests by, or the making of capital contributions to, the Borrower or any of the Restricted Subsidiaries or using the proceeds of any Disposition outside the ordinary course of business;

(d) the amount of Restricted Payments (other than Restricted Investments) paid in cash during such period, except to the extent that such Restricted Payments were financed by the Incurrence of long-term Indebtedness by, or the issuance of Equity Interests by, or the making of capital contributions to, the Borrower or any of the Restricted Subsidiaries or using the proceeds of any Disposition outside the ordinary course of business;

(e) without duplication of amounts deducted pursuant to clause (b)(ii) of the definition of "Excess Cash Flow", the aggregate amount of all principal payments of secured Indebtedness of the Borrower and the Restricted Subsidiaries (including (A) the principal component of payments in respect of Financing Lease Obligations, (B) all scheduled principal repayments of the Term Loans, secured Permitted Additional Debt and secured Credit Agreement Refinancing Indebtedness, in each case to the extent such payments are permitted hereunder and actually made and (C) the amount of any mandatory prepayment of Term Loans actually made pursuant to **Section 2.11(b)** and any mandatory redemption, repurchase, prepayment, defeasance, acquisition or similar payment of secured Permitted Additional Debt or secured Credit Agreement Refinancing Indebtedness pursuant to the corresponding provisions of the governing documentation thereof, in each such case from the proceeds of any Disposition and that resulted in an increase to Consolidated Net Income (and have not otherwise been excluded under clause (viii) of the definition thereof) and not in excess of the amount of such increase but excluding (1) all other prepayments, repurchases, defeasances, acquisitions, redemptions and/or similar payments of Term Loans, secured Permitted Additional Debt or secured Credit Agreement Refinancing Indebtedness and (2) all prepayments of secured revolving credit loans permitted hereunder made during such period (other than in respect of any secured revolving credit facility (other than in respect of (x) the

Revolving Credit Facility or any Extended Revolving Credit Facility and (y) other secured revolving loans that are effective in reliance on **Section 6.01(b)(i)**, **Section 6.01(b)(ii)** or **Section 6.01(o)**) to the extent there is an equivalent permanent reduction in commitments thereunder)), in each case, except to the extent financed by the Incurrence of long-term Indebtedness by, or the issuance of Equity Interests by, or the making of capital contributions to, the Borrower or the Restricted Subsidiaries or using the proceeds of any Disposition outside the ordinary course of business;

(f) without duplication of amounts deducted from Excess Cash Flow in other periods, (A) the aggregate consideration required to be paid in cash by the Borrower or any of its Restricted Subsidiaries pursuant to binding contracts, commitments, letters of intent or purchase orders (the "**Contract Consideration**") entered into prior to or during such period and (B) the aggregate amount of cash that is reasonably expected to be expended in respect of any planned cash expenditures by the Borrower or any of the Restricted Subsidiaries (the "**Planned Expenditures**") in the case of each of clauses (A) and (B), relating to Acquisitions (or other Investments), Capital Expenditures or acquisitions of Intellectual Property to be consummated or made during the period of four consecutive fiscal quarters of the Borrower following the end of such period (except to the extent financed by the Incurrence of long-term Indebtedness by, or the issuance of Equity Interests by, or the making of capital contributions to, the Borrower or any of the Restricted Subsidiaries or using the proceeds of any Disposition outside the ordinary course of business); provided that, to the extent that the aggregate amount of cash actually utilized to finance such Acquisitions (or other Investments), Capital Expenditures or acquisitions of Intellectual Property during such following period of four consecutive fiscal quarters is less than the Contract Consideration and Planned Expenditures, the amount of such shortfall shall be added to the calculation of the mandatory prepayment required for such following period of four consecutive fiscal quarters under **Section 2.11(c)**, at the end of such period of four consecutive fiscal quarters; and

(g) without duplication of amounts deducted pursuant to clause (b)(vi) of the definition of "Excess Cash Flow", the aggregate amount of any premium, make-whole or penalty payments actually paid in cash by the Borrower or the Restricted Subsidiaries during such period that are required to be made in connection with any prepayment, redemption, defeasance, acquisition, repurchase and/or similar payment of secured Indebtedness, except to the extent that such payments were financed by the Incurrence of long-term Indebtedness by, or the issuance of Equity Interests by, or the making of capital contributions to, the Borrower or the Restricted Subsidiaries or using the proceeds of any Disposition outside the ordinary course of business.

"**Additional Lender**" has the meaning provided in **Section 2.20(f)**.

"**Additional Revolving Lender**" means, at any time, any bank, financial institution or other institutional lender or investor that agrees to provide any portion of any Incremental Revolving Commitment or Incremental Revolving Commitment Increase pursuant to an Incremental Amendment in accordance with **Section 2.20**; **provided** that each Additional Revolving Lender shall be subject to the approval of the Administrative Agent and, if such Additional Revolving Lender will provide an Incremental Revolving Commitment Increase, each Issuing Bank (such approval in each case not to be unreasonably withheld or delayed) and the Borrower, in each case, to the extent any such approvals would otherwise be required for an assignment to a Revolving Lender pursuant to **Section 9.04(b)(i)**.

"**Additional Term Lender**" means, at any time, any bank, financial institution or other institutional lender or investor that agrees to provide any portion of any Incremental Term Loan or Incremental Term Loan Commitment pursuant to an Incremental Amendment in accordance with **Section 2.20**; **provided** that each Additional Term Lender (other than any Person that is a Lender, an Affiliate of a Lender or an Approved Fund of a Lender at such time) shall be subject to the approval of the Borrower, in each case, to the extent any such approval would otherwise be required for an assignment to a Lender of Term Loans pursuant to **Section 9.04(b)(i)**.

"**Adjusted LIBO Rate**" means, with respect to any Eurocurrency Borrowing for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/100 of 1%) equal to (a) the LIBO Rate for such Interest Period multiplied by (b) the Statutory Reserve Rate; **provided** that, notwithstanding the foregoing, (x) in the case of Initial Term Loans, the Adjusted LIBO Rate shall at no time be less than 0.50% per annum and (y) otherwise, the Adjusted LIBO Rate shall at no time be less than zero.

"**Adjustment**" has the meaning assigned to such term in **Section 2.14(b)**.

"**Administrative Agent**" means Bank of America, N.A., in its capacity as administrative agent and collateral agent hereunder and under the other Loan Documents, and its successors in such capacity as provided in **Article VIII**.

"**Administrative Questionnaire**" means an administrative questionnaire in a form supplied by the Administrative Agent.

"**Affected Financial Institution**" means (a) any EEA Financial Institution or (b) any UK Financial Institutions.

"**Affiliate**" means, with respect to a specified Person, another Person that directly or indirectly Controls or is Controlled by or is under common Control with the Person specified.

"**Affiliated Lender**" means, at any time, a Non-Debt Fund Affiliate or a Debt Fund Affiliate.

"**After Year End Payment**" has the meaning assigned to such term in **Section 2.11**.

"**Agent Parties**" has the meaning assigned to such term in **Section 9.01(c)**.

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

"**AHYDO Catch-Up Payment**" means any payment with respect to any obligations of the Borrower or any Restricted Subsidiary, including subordinated debt obligations, to avoid the application of Section 163(e)(5) of the Code thereto.

"**Alternate Base Rate**" means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate in effect on such day plus 1/2 of 1% per annum, (c) the Adjusted LIBO Rate on such day (or if such day is not a Business Day, the immediately preceding Business Day) for a deposit in Dollars with a maturity of one month plus 1% per annum; **provided** that, for purposes of this definition, Adjusted LIBO Rate for any day shall be based on the LIBO Screen Rate at approximately 11:00 a.m., London time, on such day for deposits in Dollars with a maturity of one month; **provided**, **further**, that, notwithstanding the foregoing, (x) in the case of Initial Term Loans, the Alternate Base Rate shall at no time be less than 1.50% per annum and (y) otherwise, the Alternate Base Rate shall at no time be less than 1.00% per annum. If the Administrative Agent shall have determined (which determination should be conclusive absent manifest error) that it is unable to ascertain the NYRFB Rate for any reason, including the inability or failure of the Administrative Agent to obtain sufficient quotations in accordance with the terms of the definition thereof, the Alternate Base Rate shall be determined without regard to clause (b) of the preceding sentence until the circumstances giving

rise to such inability no longer exist. Any change in the Alternate Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted LIBO Rate shall be effective on the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted LIBO Rate, as the case may be.

"**Anti-Corruption Laws**" means the Foreign Corrupt Practices Act, the United Kingdom Bribery Act 2010 and similar laws, rules and regulations of any jurisdiction applicable to Borrower or any of the Restricted Subsidiaries.

"**Anticipated Cure Deadline**" has the meaning assigned to such term in **Section 7.02(b)**.

"**Applicable Account**" means, with respect to any payment to be made to the Administrative Agent hereunder, the account specified by the Administrative Agent from time to time for the purpose of receiving payments of such type.

"**Applicable Discount**" has the meaning assigned to such term in **Section 2.11(a)(ii)(C)**.

"**Applicable Percentage**" means, (a) at any time with respect to any Revolving Lender, the percentage of the aggregate Revolving Commitments represented by such Lender's Revolving Commitment at such time, (b) at any time with respect to any Lender with an Incremental Revolving Commitment of any Class, the percentage of the aggregate Incremental Revolving Commitments of such Class represented by such Lender's Incremental Revolving Commitment at such time and (c) at any time with respect to any Lender with an Extended Revolving Commitment of any Class, the percentage of the aggregate Extended Revolving Commitments of such Class represented by such Lender's Extended Revolving Commitment at such time; **provided** that, at any time any Lender shall be a Defaulting Lender, "Applicable Percentage" shall mean the percentage of the total Revolving Commitments, Incremental Revolving Commitments or Extended Revolving Commitments, as applicable, (disregarding any such Defaulting Lender's Commitment) represented by such Lender's Revolving Commitment, Incremental Revolving Commitment or Extended Revolving Commitment, as applicable. If the applicable Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the applicable Commitments most recently in effect, giving effect to any assignments pursuant to this Agreement and to any Lender's status as a Defaulting Lender at the time of determination.

"**Applicable Rate**" means, for any day, (a) with respect to any Initial Term Loan, (i) 2.50% per annum in the case of an ABR Loan, and (ii) 3.50% per annum in the case of a Eurocurrency Loan, (b) with respect to any Revolving Loan made with respect to Revolving Commitments established on the Effective Date or the Revolving Commitment Fee with respect to such Revolving Commitments, the applicable rate per annum set forth below, based upon the Consolidated First Lien Leverage Ratio as set forth in the most recent Compliance Certificate delivered to the Administrative Agent pursuant to **Section 5.01(d)**; **provided** that, for the purposes of **clause (b)**, until the first Business Day following the date of the delivery of the consolidated financial statements and related Compliance Certificate pursuant to **Section 5.01(a)** or **5.01(b)** and **Section 5.01(d)** as of and for the first full fiscal quarter ended after the Effective Date, the Applicable Rate shall be based on the rates per annum set forth in Category 2:

Consolidated First Lien Leverage Ratio	Eurocurrency Spread for Revolving Loans	ABR Spread for Revolving Loans	Revolving Commitment Fee
Category 1			
Greater than or equal to 4.00 to 1.00	2.75%	1.75%	0.50%

Consolidated First Lien Leverage Ratio	Eurocurrency Spread for Revolving Loans	ABR Spread for Revolving Loans	Revolving Commitment Fee
Category 2			
Less than 4.00 to 1.00 but greater than or equal to 3.50 to 1.00	2.50%	1.50%	0.375%
Category 3			
Less than 3.50 to 1.00 but greater than or equal to 3.00 to 1.00	2.25%	1.25%	0.25%
Category 4			
Less than 3.00 to 1.00 but greater than or equal to 1.00 to 1.00	2.00%	1.00%	0.25%
Category 5			
Less than 1.00 to 1.00	1.75%	0.75%	0.20%

and (c) with respect to any Incremental Revolving Facility, Incremental Term Loan Facility, Extended Revolving Facility or Extended Term Facility, the rate set forth in the applicable Incremental Amendment or Extension Amendment.

For purposes of the foregoing, each change in the Applicable Rate resulting from a change in the Consolidated First Lien Leverage Ratio shall be effective during the period commencing on and including the Business Day following the date of delivery to the Administrative Agent pursuant to **Section 5.01(d)** of the Compliance Certificate indicating such change and ending on the date immediately preceding the effective date of the next such change. Notwithstanding the foregoing, the Applicable Rate for Revolving Loans and the Revolving Commitment Fee, at the option of the Administrative Agent or the Required Revolving Lenders, shall be based on the rates per annum set forth in Category 1 (i) at any time that an Event of Default under **Section 7.01(a)** has occurred and is continuing and shall continue to so apply to but excluding the date on which such Event of Default shall cease to be continuing (and thereafter, the Category otherwise determined in accordance with this definition shall apply) or (ii) if the Borrower fails to deliver the Compliance Certificate required to be delivered pursuant to **Section 5.01(d)** within the time periods specified herein for such delivery, during the period commencing on and including the day of the occurrence of a Default resulting from such failure and until the delivery thereof.

"**Applicable Tax Owner**" means the applicable direct or indirect equity owner of a Lender to which the applicable U.S. federal withholding tax relates.

"**Approved Bank**" means any commercial bank that (i) is a Lender or (ii) has combined capital and surplus of at least $250,000,000.

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

"**ARTAL**" means Artal Holdings Sp. z.o.o., Succursale de Luxembourg.

"**Asset Sale Prepayment Event**" means any Disposition (or series of related Dispositions) of any business unit, asset or property of the Borrower or any Restricted Subsidiary (including any Disposition of any Equity Interests of any Subsidiary of the Borrower owned by the Borrower or any Restricted Subsidiary, but not, for the avoidance of doubt, in connection with a Casualty Prepayment Event) made pursuant to **clauses (a)(i)**, **(f)**, **(g)**, **(k)** and **(l)** of **Section 6.06** or made in violation of **Section 6.06**.

"**Assignment and Assumption**" means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any Person whose consent is required by **Section 9.04**), substantially in the form of **Exhibit A-1** or **Exhibit A-2**, as appropriate, or any other form reasonably approved by the Administrative Agent.

"**Auction Agent**" means (a) the Administrative Agent or (b) any other financial institution or advisor employed or engaged by the Borrower (whether or not an Affiliate of the Administrative Agent) to act as an arranger in connection with any Discounted Term Loan Prepayment pursuant to **Section 2.11(a)(ii)**; **provided** that the Borrower shall not designate the Administrative Agent as the Auction Agent without the written consent of the Administrative Agent (it being understood that the Administrative Agent shall be under no obligation to agree to act as the Auction Agent).

"**Available Amount**" means, at any time (the "**Available Amount Reference Time**"), an amount (which shall not be less than zero) equal to

(a) the sum (without duplication) of:

(i) the amount (which shall not be less than zero) equal to 50% of the Cumulative Consolidated Net Income of the Borrower and the Restricted Subsidiaries (the "**Available Amount Builder Basket**"); plus

(ii) to the extent not already included in the calculation of Consolidated Net Income, the aggregate amount of all Returns received by the Borrower or any Restricted Subsidiary from any Investment (which amounts when combined with any amount in respect of such Investment set forth in **clause (iii)** or **(iv)** below shall not exceed the original amount of such Investment (valued at the time such Investment was made)) to the extent such Investment was made by using the Available Amount during the period from the Business Day immediately following the Effective Date through the Available Amount Reference Time;

(iii) to the extent not already included in the calculation of Consolidated Net Income or applied to prepay the Term Loans in accordance with **Section 2.11(b)** or to prepay, repurchase, redeem, defease or make any similar payment of any Permitted Additional Debt, any Credit Agreement Refinancing Indebtedness or other Indebtedness, the aggregate amount of all Net Cash Proceeds received by the Borrower or any Restricted Subsidiary in connection with the Disposition of its ownership interest in any Investment (which amounts when combined with any amount in respect of such Investment set forth in **clause (ii)** above or **clause (iv)** below shall not exceed the original amount of any such Investment (valued at the time such Investment was made)) to any Person other than to the Borrower or a Restricted Subsidiary and to the extent such Investment was made by using the Available Amount during the period from the Business Day immediately following the Effective Date through the Available Amount Reference Time;

(iv) to the extent not already included in the calculation of Consolidated Net Income, the aggregate amount of all cash or Cash Equivalent repayments of principal received by the Borrower or any Restricted Subsidiary from any Investment (which amounts when combined with any amount in respect of such Investment set forth in **clause (ii)** or **(iii)** above shall not exceed the original amount of such Investment (valued at the time such Investment was made)) to the extent such Investment was made by using the Available Amount during the period, from the Business Day immediately following the Effective Date through the Available Amount Reference Time in respect of loans made by the Borrower or any Restricted Subsidiary that constituted Investments; and

(v) to the extent not already included in the calculation of Consolidated Net Income, the amount of any Investment of the Borrower or any of its Restricted Subsidiaries in any Unrestricted Subsidiary that has been re-designated as a Restricted Subsidiary pursuant to **Section 5.13** or that has been merged, amalgamated or consolidated with or into the Borrower or any of its Restricted Subsidiaries pursuant to **Section 6.05** or the amount of assets of an Unrestricted Subsidiary Disposed of to the Borrower or any of its Restricted Subsidiaries, in each case following the Effective Date and through the Available Amount Reference Time, in each case, such amount not to exceed the lesser of (x) the Fair Market Value of the Investments of the Borrower and its Restricted Subsidiaries in such Unrestricted Subsidiary immediately prior to giving pro forma effect to such re-designation or merger, amalgamation or consolidation or Disposal of assets and (y) the amount originally invested from the Available Amount by the Borrower and its Restricted Subsidiaries in such Unrestricted Subsidiary;

minus

(b) the sum of, without duplication and without taking into account the proposed portion of the amount calculated above to be used at the applicable Available Amount Reference Time:

(i) the aggregate amount of any Investments made by the Borrower or any Restricted Subsidiary using the Available Amount pursuant to **Section 6.04**, in each case after the Effective Date and prior to the Available Amount Reference Time;

(ii) the aggregate amount of any Restricted Payments made by the Borrower using the Available Amount pursuant to **Section 6.07** after the Effective Date and prior to the Available Amount Reference Time; and

(iii) the aggregate amount of prepayments, repurchases, redemptions, defeasances, acquisitions and other similar payments made by the Borrower or any Restricted Subsidiary using the Available Amount pursuant to **Section 6.10** after the Effective Date and prior to the Available Amount Reference Time.

"**Available Amount Builder Basket**" has the meaning assigned to such term in the definition of the term "Available Amount".

"**Available Amount Reference Time**" has the meaning assigned to such term in the definition of the term "Available Amount".

"**Available Equity Amount**" means, at any time (the "**Available Equity Amount Reference Time**"), an amount equal at such time to

(a) the sum of, without duplication:

(i) the aggregate amount of cash and the Fair Market Value of marketable securities or other property, in each case, contributed to the capital of the Borrower or the proceeds received by the Borrower from the issuance of any Equity Interests (or Incurrences of Indebtedness that have been converted into or exchanged for Qualified Equity Interests), in each case during the period after the Effective Date through and including the Available Equity Amount Reference Time and to the extent Not Otherwise Applied and excluding (for the avoidance of doubt):

(A) all proceeds from the issuance of Disqualified Equity Interests,

(B) any Excluded Contribution, and

(C) any Cure Amount;

(ii) to the extent not already included in the calculation of Consolidated Net Income, the aggregate amount of all Returns (to the extent made in cash or Cash Equivalents) received by the Borrower or any Restricted Subsidiary on Investments made using the Available Equity Amount during the period after the Effective Date through and including the Available Equity Amount Reference Time (which shall not exceed the original amount of such Investment (valued at the time of such Investment was made));

(iii) (x) the Fair Market Value or (y) if the Fair Market Value of such Term Loans cannot be ascertained, the Fair Market Value shall be the purchase price of such Term Loans (which, in the case of each of **clause (x)** or **(y)**, shall not in any event be calculated in excess of par) of Term Loans contributed directly or indirectly to the Borrower during the period after the Effective Date through and including the Available Equity Amount Reference Time, **provided** that such Term Loans are cancelled following such contribution;

(iv) the greater of $125,000,000 and 35% of Consolidated EBITDA of the Borrower and its Restricted Subsidiaries for the Test Period most recently ended on or prior to any such Available Equity Amount Reference Time (measured as of such date) based upon the Internal Financial Statements most recently available on or prior to such date; and

(v) to the extent not already included in the calculation of Consolidated Net Income or the Available Amount, the aggregate amount (which amount shall not be less than zero) of any Declined Amounts retained by the Borrower or any Restricted Subsidiary during the period after the Effective Date through and including the Available Equity Amount Reference Time;

minus

(b) the sum of, without duplication and without taking into account the proposed portion of the Available Equity Amount calculated above to be used at the applicable Available Equity Amount Reference Time:

(i) the aggregate amount of any Permitted Investments made by the Borrower or any Restricted Subsidiary using the Available Equity Amount pursuant to **Section 6.04** after the Effective Date and prior to the Available Equity Amount Reference Time;

(ii) the aggregate amount of any Restricted Payments made by the Borrower using the Available Equity Amount pursuant to **Section 6.07** after the Effective Date and prior to the Available Equity Amount Reference Time; and

(iii) the aggregate amount of prepayments, repurchases, redemptions, defeasances, acquisitions and other similar payments made by the Borrower or any Restricted Subsidiary using the Available Equity Amount pursuant to **Section 6.10** after the Effective Date and prior to the Available Equity Amount Reference Time.

"**Available Equity Amount Reference Time**" has the meaning assigned to such term in the definition of the term "Available Equity Amount".

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

"**Bail-In Legislation**" means (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation, rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

"**Bankruptcy Code**" means Title 11 of the United States Code, as amended, or any similar federal or state law for the relief of debtors.

"**Basel III**" means, collectively, those certain agreements on capital requirements, a leverage ratio and liquidity standards contained in "Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems," "Basel III: International Framework for Liquidity Risk Measurement, Standards and Monitoring," and "Guidance for National Authorities Operating the Countercyclical Capital Buffer," each as published by the Basel Committee on Banking Supervision in December 2010 (as revised from time to time) and as interpreted by a Lender's primary U.S. federal bank regulatory authority or primary non-U.S. financial regulatory authority, as applicable.

"**Beneficial Ownership Certification**" means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

"**Beneficial Ownership Regulation**" means 31 C.F.R. § 1010.230.

"**Benefit Plan**" means any of (a) an "employee benefit plan" (as defined in ERISA) that is subject to Title I of ERISA, (b) a "plan" as defined in Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such "employee benefit plan" or "plan".

"**BHC Act Affiliate**" of a party means an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

"**Board of Directors**" means, with respect to any Person, (a) in the case of any corporation, the board of directors of such Person or any committee thereof duly authorized to act on behalf of such board, (b) in the case of any limited liability company, the board of managers of such Person, (c) in the case of any partnership, the board of directors or board of managers of the general partner of such Person and (d) in any other case, the functional equivalent of the foregoing.

"**Borrower**" has the meaning assigned to such term in the preamble to this Agreement and shall include any Successor Borrower pursuant to **Section 6.05(a)**, to the extent applicable.

"**Borrower Materials**" has the meaning assigned to such term in **Section 5.01**.

"**Borrower Offer of Specified Discount Prepayment**" means the offer by the Borrower to make a voluntary prepayment of Term Loans at a specified discount to par pursuant to **Section 2.11(a)(ii)(B)**.

"**Borrower Solicitation of Discount Range Prepayment Offers**" means the solicitation by the Borrower of offers for, and the corresponding acceptance by a Term Lender of, a voluntary prepayment of Term Loans at a specified range at a discount to par pursuant to **Section 2.11(a)(ii)(C)**.

"**Borrower Solicitation of Discounted Prepayment Offers**" means the solicitation by the Borrower of offers for, and the subsequent acceptance, if any, by a Term Lender of, a voluntary prepayment of Term Loans at a discount to par pursuant to **Section 2.11(a)(ii)(D)**.

"**Borrowing**" means Loans of the same Class and Type, made, converted or continued on the same date and, in the case of Eurocurrency Loans, as to which a single Interest Period is in effect.

"**Borrowing Minimum**" means (a) in the case of a Eurocurrency Revolving Loan Borrowing, $1,000,000 and (b) in the case of an ABR Revolving Loan Borrowing, $500,000.

"**Borrowing Multiple**" means (a) in the case of a Eurocurrency Revolving Loan Borrowing, $500,000 and (b) in the case of an ABR Revolving Loan Borrowing, $500,000.

"**Business Day**" means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law or other government action to remain closed; **provided** that if such day relates to any interest rate settings as to a Eurocurrency Loan, any fundings, disbursements, settlements and payments in respect of any such Eurocurrency Loan, or any other dealings to be carried out pursuant to this Agreement in respect of any such Eurocurrency Loan, "Business Day" also means any such day on which commercial banks in New York are open and on which dealings in deposits in Dollars are conducted by and between banks in the London interbank eurodollar market.

"**Capital Expenditures**" means, for any Person in respect of any period, the aggregate of, without duplication, (a) all expenditures (whether paid in cash or accrued as a liability) incurred by such Person during such period that, in accordance with GAAP, are or should be included in "capital expenditures," "additions to property, plant or equipment" or similar items reflected in the statement of cash flows of such Person, (b) all Capitalized Software Expenditures and Capitalized Research and Development Costs during such period and (c) all fixed asset additions financed through Financing Lease Obligations Incurred by the Borrower or any Restricted Subsidiary and recorded on the balance sheet in accordance with GAAP during such period.

"**Capitalized Research and Development Costs**" means, for any period, all research and development costs that are, or are required to be, in accordance with GAAP, reflected as capitalized costs on the consolidated balance sheet of the Borrower and the Restricted Subsidiaries.

"**Capitalized Software Expenditures**" means, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities) by the Borrower and the Restricted Subsidiaries during such period in respect of purchased software or internally developed software and software enhancements that, in conformity with GAAP, are or are required to be reflected as capitalized costs on the consolidated balance sheet of the Borrower and the Restricted Subsidiaries.

"**Cash Collateral**" has the meaning assigned to such term in the definition of "Cash Collateralize."

"**Cash Collateralize**" means, in respect of an obligation, provide and pledge (as a perfected first priority security interest) cash or deposit account balances in Dollars ("**Cash Collateral**"), at a location and pursuant to documentation in form and substance reasonably satisfactory to the Administrative Agent and the applicable Issuing Banks (which documents are hereby consented to by the Lenders) (and "**Cash Collateralization**" has a corresponding meaning).

"**Cash Equivalents**" means:

(a) Dollars;

(b) other currencies held by the Borrower and its Restricted Subsidiaries from time to time in the ordinary course of business;

(c) securities issued or directly and fully and unconditionally guaranteed or insured by the U.S. government or any agency or instrumentality thereof as a full faith and credit obligation of the U.S. government, with average maturities of 24 months or less from the date of acquisition;

(d) certificates of deposit, time deposits and eurodollar time deposits with average maturities of one year or less from the date of acquisition, demand deposits, bankers' acceptances with average maturities not exceeding one year and overnight bank deposits, in each case with any commercial bank having capital and surplus of not less than $100.0 million in the case of U.S. banks or other U.S. financial institutions and $100.0 million (or the Dollar equivalent as of the date of determination) in the case of non-U.S. banks or other non-U.S. financial institutions;

(e) repurchase obligations for underlying securities of the types described in clauses (c), (d) and (h) entered into with any financial institution meeting the qualifications specified in clause (d) above;

(f) commercial paper rated at least P-2 by Moody's or at least A-2 by S&P (or, if at any time, neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another Rating Agency) and variable or fixed rate notes issued by any financial institution meeting the qualifications specified in clause (4) above, in each case, with average maturities of 36 months after the date of creation thereof;

(g) marketable short-term money market and similar securities having a rating of at least P-2 or A-2 from either Moody's or S&P, respectively (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another Rating Agency);

(h) securities issued or directly and fully and unconditionally guaranteed by any state, commonwealth or territory of the United States of America or any political subdivision or taxing authority of any such state, commonwealth or territory or any public instrumentality thereof having average maturities of not more than 36 months from the date of acquisition thereof;

(i) readily marketable direct obligations issued or directly and fully and unconditionally guaranteed by any foreign government or any political subdivision or public instrumentality thereof, in each case (other than in the case of such securities issued or guaranteed by any participating member state of the EMU) having an Investment Grade Rating from either Moody's or S&P (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another Rating Agency) with average maturities of 36 months or less from the date of acquisition;

(j) Indebtedness or Preferred Equity Interests issued by Persons with a rating of "A" or higher from S&P or "A2" or higher from Moody's (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another Rating Agency) with average maturities of 36 months or less from the date of acquisition;

(k) Investments with average maturities of 36 months or less from the date of acquisition in money market funds rated A (or the equivalent thereof) or better by S&P or A2 (or the equivalent thereof) or better by Moody's (or, if at any time, neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another Rating Agency);

(l) investments, classified in accordance with GAAP as current assets, in money market investment programs that are registered under the Investment Company Act of 1940 or that are administered by financial institutions meeting the qualifications specified in **clause (d)** above, and, in either case, the portfolios of which are limited such that substantially all of such investments are of the character, quality and maturity described in **clauses (a)** through **(k)** of this definition;

(m) in the case of investments by any Foreign Subsidiary or investments made in a country outside the United States of America, Cash Equivalents shall also include (i) investments of the type and maturity described in **clauses (a)** through **(l)** above of foreign obligors, which investments or obligors (or the parents of such obligors) have ratings, described in such clauses or equivalent ratings from comparable foreign Rating Agencies and (ii) other short term investments utilized by Foreign Subsidiaries in accordance with normal investment practices for cash management in investments analogous to the foregoing investments described in **clauses (a)** through **(l)** of this paragraph; and

(n) investment funds investing 90% of their assets in securities of the types described in **clauses (a)** through **(l)** above.

Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in currencies other than those set forth in **clauses (a)** and **(b)** above; **provided** that such amounts are converted into any currency or securities listed in **clauses (a)** through **(d)** as promptly as practicable and in any event within ten (10) Business Days following the receipt of such amounts. For the avoidance of doubt, any items identified as Cash Equivalents under this definition will be deemed to be Cash Equivalents under the Loan Documents regardless of the treatment of such items under GAAP.

"**Cash Management Agreement**" means any agreement entered into from time to time by the Borrower or any of the Restricted Subsidiaries in connection with cash management services for collections, other Cash Management Services or for operating, payroll and trust accounts of such Person, including automatic clearing house services, controlled disbursement services, electronic funds transfer services, information reporting services, lockbox services, stop payment services and wire transfer services.

"**Cash Management Services**" means (a) commercial debt or credit cards, merchant card services, purchase or debit cards, including non-card e-payables services, (b) treasury management services (including cash pooling arrangements, controlled disbursement, netting, overdraft and electronic or automatic clearing house fund transfer services, return items and interstate depository network services) and (c) any other demand deposit or operating account relationships or other cash management services.

"**Casualty Prepayment Event**" means any event that gives rise to the receipt by the Borrower or any Restricted Subsidiary of any insurance proceeds or condemnation awards arising from any damage to, destruction of, or other casualty or loss involving, or any seizure, condemnation, confiscation or taking under power of eminent domain of, or requisition of title or use of or relating to or in respect of any equipment, fixed assets or Real Property (including any improvements thereon) of the Borrower or any Restricted Subsidiary.

"**CFC**" means a "controlled foreign corporation" within the meaning of Section 957 of the Code and any direct or indirect Subsidiary thereof.

"**Change in Control**" means:

(a) the occurrence of a "change of control" or any comparable term, under, and as defined in, the documentation governing any Material Indebtedness; or

(b) the acquisition by any Person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act), including any group acting for the purpose of acquiring, holding or disposing of Equity Interests of the Borrower (within the meaning of Rule 13d-5(b)(1) under the Exchange Act), other than the Permitted Holders, by way of merger, consolidation or other business combination or purchase, of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act) of more than 50% of the total voting power of the Voting Stock of the Borrower, unless the Permitted Holders otherwise have the right (pursuant to contract, proxy or otherwise), directly or indirectly, to designate or appoint a majority of the directors of the Borrower.

Notwithstanding anything to the contrary in this definition or any provision of Rule 13d-3 of the Exchange Act (or any successor provision), (i) a Person or group shall not be deemed to beneficially own Voting Stock (x) to be acquired by such Person or group pursuant to an equity or asset purchase agreement, merger agreement, option agreement, warrant agreement or similar agreement (or voting or option or similar agreement related thereto) until the consummation of the acquisition of the Voting Stock in connection with the transactions contemplated by such agreement or (y) solely as a result of veto or approval rights in any joint venture agreement, shareholder agreement, investor rights agreement or other similar agreement, (ii) if any group (other than a Permitted Holder) includes one or more Permitted Holders, the issued and outstanding Voting Stock of the Borrower owned, directly or indirectly, by any Permitted Holders that are part of such group shall not be treated as being beneficially owned by such group or any other member of such group for purposes of determining whether a Change in Control has occurred, (iii) a Person or group (other than Permitted Holders) will not be deemed to beneficially own

Voting Stock of another Person as a result of its ownership of Equity Interests or other securities of such other Person's Parent Entity (or related contractual rights) unless it owns more than 50.0% of the total voting power of the Voting Stock of such Person's Parent Entity and (iv) the right to acquire Voting Stock (so long as such Person does not have the right to direct the voting of the Voting Stock subject to such right) or any veto power in connection with the acquisition or disposition of Voting Stock will not cause a party to be a beneficial owner.

"**Change in Law**" means the occurrence, after the Effective Date, of any of the following: (a) the adoption of any Requirement of Law, (b) any change in any Requirement of Law or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; **provided** that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. No. 111-203) and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "Change in Law," regardless of the date enacted, adopted or issued.

"**Charges**" has the meaning assigned to such term in **Section 9.17**.

"**Class**" when used in reference to (a) any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans, Incremental Revolving Loans, Extended Revolving Loans, Initial Term Loans, Incremental Term Loans or Extended Term Loans, (b) any Commitment, refers to whether such Commitment is a Revolving Commitment, Incremental Revolving Commitment (of the same series), Extended Revolving Commitment (of the same series), Initial Term Commitment, or Incremental Term Loan Commitment and (c) any Lender, refers to whether such Lender has a Loan or Commitment with respect to a particular Class of Loans or Commitments. Incremental Term Loans, Extended Term Loans, Incremental Revolving Commitments (and Incremental Revolving Loans made pursuant thereto) and Extended Revolving Commitments (and Extended Revolving Loans made pursuant thereto) that have different terms and conditions shall be construed to be in different Classes.

"**Co-Documentation Agent**" means KeyBanc Capital Markets Inc. and Truist Bank, each in its capacity as a co-documentation agent.

"**Co-Syndication Agent**" means Goldman Sachs Bank USA and JPMorgan Chase Bank, N.A., each in its capacity as a co-syndication agent.

"**Code**" means the Internal Revenue Code of 1986, as amended (unless as otherwise indicated).

"**Collateral**" has the meaning assigned to such term or any similar term in each of the Security Documents; **provided**, that with respect to any Mortgages, "Collateral" shall mean "Mortgaged Property" or "Trust Property" as defined therein or any comparable term describing the assets and rights subject to such Mortgage.

"**Collateral and Guarantee Requirement**" means, at any time, and subject to applicable limitations set forth in this Agreement or any other Loan Document, the requirement that:

(a) the Administrative Agent shall have received from the Borrower and each of its Restricted Subsidiaries (other than any Excluded Subsidiary) either (x) a counterpart of each of the Loan Guaranty and the Security Agreement duly executed and delivered on behalf of such Person or (y) in the case of any Person that is required to become a Loan Party after the Effective Date (including by ceasing to be an Excluded Subsidiary), a joinder or supplement to each of the Loan Guaranty and the Security Agreement, in substantially the form specified therein (with such changes as may be reasonably acceptable to the Administrative Agent), duly executed and delivered on behalf of such Person, together with, in the case of any such Loan Documents executed and delivered after the Effective Date, but only to the extent reasonably requested by the Administrative Agent, documents of the type referred to in **Section 4.01(c)**;

(b) all outstanding Equity Interests of each Restricted Subsidiary (other than any Excluded Equity Interests) owned by any Loan Party shall have been pledged pursuant to the Security Agreement and the Administrative Agent shall have received certificates or other instruments representing all such Equity Interests (if any), together with undated share powers or other instruments of transfer with respect thereto endorsed in blank;

(c) (i) except with respect to intercompany Indebtedness (other than owing by any Unrestricted Subsidiary), if any Indebtedness for borrowed money in a principal amount in excess of $25,000,000 (individually) is owing to any Loan Party and such Indebtedness is evidenced by a promissory note, the Administrative Agent shall have received such promissory note, together with undated instruments of transfer with respect thereto endorsed in blank and (ii) with respect to intercompany Indebtedness, all Indebtedness of the Borrower and each of its Restricted Subsidiaries that is owing to any Loan Party (or Person required to become a Loan Party) shall be evidenced by the Intercompany Subordinated Note, and the Administrative Agent shall have received such Intercompany Subordinated Note duly executed by the Borrower, each such Restricted Subsidiary and each such other Loan Party, together with undated instruments of transfer with respect thereto endorsed in blank (it being understood that any Restricted Subsidiary not a signatory to the Intercompany Subordinated Note on the Effective Date may execute a joinder to the Intercompany Subordinated Note at any time after the Effective Date by providing written notice to the Administrative Agent and delivering such joinder to the Administrative Agent in order to become a party thereto, together with an undated instrument of transfer with respect thereto endorsed in blank);

(d) all certificates, agreements, documents and instruments, including Uniform Commercial Code financing statements and Intellectual Property security agreements, required to be filed, delivered, registered or recorded to create the Liens intended to be created by the Security Documents and perfect such Liens to the extent required by, and with the priority required by, the Security Documents and the other provisions of the term "Collateral and Guarantee Requirement," shall have been filed, registered or recorded or delivered to the Administrative Agent for filing, registration or recording; and

(e) the Administrative Agent shall have received, to the extent customary and appropriate (as determined by the Administrative Agent in its reasonable discretion) in the applicable jurisdiction,

(i) counterparts of a Mortgage with respect to each Mortgaged Property duly executed and delivered by the record owner of such Mortgaged Property

(ii) the Flood Documentation,

(iii) a fully paid policy or policies of title insurance (or an unconditional commitment to issue such policy or policies) in an amount not to exceed the Fair Market Value of the Mortgaged Property as reasonably determined by the Borrower issued by a nationally recognized title insurance company reasonably acceptable to the Administrative Agent insuring the Lien of each such Mortgage as a first priority Lien on the Mortgaged Property described therein, free of any other Liens except as expressly permitted by **Section 6.02**, together with such endorsements, coinsurance and reinsurance as the Administrative Agent may reasonably request to the extent available in the relevant jurisdiction at commercially reasonable rates,

(iv) such legal opinions of local counsel in the jurisdiction in which a Mortgage is granted as the Administrative Agent may reasonably request with respect to any such Mortgage or Mortgaged Property, and

(v) a Survey (**provided**, **however**, that a Survey shall not be required to the extent that the issuer of the applicable title insurance policy provides reasonable and customary survey-related coverages (including, without limitation, survey-related endorsements) in the applicable title insurance policy based on an existing survey and/or such other documentation as may be reasonably satisfactory to the title insurer).

Notwithstanding the foregoing provisions of this definition or anything in this Agreement or any other Loan Document to the contrary,

(x) Liens required to be granted from time to time pursuant to the term "Collateral and Guarantee Requirement" shall be subject to exceptions and limitations set forth in the Security Documents,

(y) no Loan Party shall be required to perfect the security interests in any property (other than Real Property) purported to be created by the Security Documents other than by

(i) filings pursuant to the Uniform Commercial Code,

(ii) filings with United States Patent and Trademark Office or the United States Copyright Office, as applicable, with respect to Intellectual Property,

(iii) in the case of Collateral that constitutes Tangible Chattel Paper, Instruments, Certificated Securities or Negotiable Documents (each as defined in the Uniform Commercial Code), in each case, to the extent included in the Collateral and required by the Security Agreement or any other applicable Security Document, delivery to the Administrative Agent, together with undated share powers or other instruments of transfer with respect thereto endorsed in blank, to be held in its possession in the United States,

(iv) in the case of Collateral that constitutes Commercial Tort Claims (as defined in the Uniform Commercial Code) taking the actions specified by **Section 4.04** of the Security Agreement, and

(v) in the case of pledged Collateral constituting Uncertificated Securities (as defined in the Uniform Commercial Code) to the extent such Uncertificated Securities do not constitute General Intangibles perfected pursuant to filings pursuant to the Uniform Commercial Code, taking such actions as may be required by **Section 5.11**, and

(z) no Loan Party shall be required to (1) complete any filings or other action with respect to the perfection of any Liens required to be granted pursuant to the terms of the Collateral and Guarantee Requirement in any jurisdiction outside of the United States, (2) deliver Certificated Securities, if any, representing or evidencing the Equity Interests of an Immaterial Subsidiary or any Minority Investment or (3) except as described in **clauses (b)** and **(c)** above, take actions to perfect by Control (as defined in the Uniform Commercial Code), including delivering agreements or other control or similar arrangements with respect to deposit accounts, commodity accounts, securities accounts, collateral accounts, letter of credit rights or other assets requiring perfection by control (other than as required by **clauses (b)** and **(c)** of this definition), (d) in no event shall landlord lien waivers, bailee letters, estoppels and collateral access letters be required to be delivered and (e) in no event shall the Collateral include any Excluded Assets and no Loan Party shall be deemed to have granted a security interest in any of such Loan Party's rights or interests in any Excluded Assets. Notwithstanding anything herein or in any other Loan Document to the contrary, the Loans Parties shall not be required to take any action intended to cause Excluded Assets to constitute Collateral (but without limitation of any of the requirements set forth in the definition of Excluded Subsidiary). The Administrative Agent may grant extensions of time for the creation and perfection of security interests in or the obtaining of title insurance, legal opinions or other deliverables with respect to particular assets or the provision of any Guarantee by any Restricted Subsidiary (including extensions beyond the Effective Date or in connection with assets acquired, or Restricted Subsidiaries formed or acquired, after the Effective Date) where it reasonably determines that such action cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required to be accomplished by this Agreement or the Security Documents, and each Lender hereby consents to any such extensions of time.

"**Commitment**" means, with respect to any Lender, its Revolving Commitment, Incremental Revolving Commitment of any Class, Extended Revolving Commitment of any Class, Initial Term Commitment, Incremental Term Loan Commitment of any Class, or any combination thereof (as the context requires).

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

"**Compliance Certificate**" means a certificate of a Financial Officer required to be delivered pursuant to **Section 5.01(d)**.

"**Consolidated Debt**" means, as of any date of determination, (a) the sum of (without duplication) the aggregate principal amount of all Indebtedness of the types set forth in **clauses (a)**, **(b)**, **(e)** and **(g)** (but, in the case of **clause (g)**, only to the extent of unreimbursed drawings under any letter of credit) of the definition of "Indebtedness" of the Borrower and the Restricted Subsidiaries determined on a consolidated basis in accordance with GAAP on such date less (b) the Unrestricted Cash of the Borrower and its Restricted Subsidiaries on such date.

"**Consolidated EBITDA**" means, with respect to any Person for any period, the Consolidated Net Income of such Person for such period plus:

(1) without duplication and to the extent already deducted (and not added back) or not included in arriving at such Consolidated Net Income, the sum of the following amounts for such period:

(a) Fixed Charges of such Person for such period and, to the extent not reflected in Fixed Charges, any losses on Swap Obligations or other derivative instruments entered into for the purpose of hedging interest rate risk, net of interest income and gains on such Swap Obligations or such derivative instruments, and bank and letter of credit fees, debt rating monitoring fees and costs of surety bonds in connection with financing activities, plus items excluded from the definition of "Consolidated Interest Expense" pursuant to clauses (a) through (n) thereof,

(b) provision for taxes based on income, profits, revenue or capital, including federal, foreign and state income, franchise, excise, value added and similar taxes based on income, profits, revenue or capital, and foreign withholding taxes of such Person paid or accrued during such period (including in respect of repatriated funds), including any future taxes or other levies which replace or are intended to be in lieu of such taxes and any penalties and interest relating to such taxes or arising from any tax examinations, and the net tax expense associated with any adjustment made pursuant to clauses (i) through (xvi) of the definition of "Consolidated Net Income" and (without duplication) any payments to a Parent Entity pursuant to **Section 6.07(i)**,

(c) the total amount of depreciation and amortization expense (including amortization of deferred financing fees or costs, internal labor costs, debt issuance costs, commissions, fees and expenses, Capital Expenditures, customer acquisition costs and incentive payments, conversion costs and contract acquisition costs) and intangible assets established through purchase accounting of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP,

(d) any other non-cash charges, including any write offs, write downs, expenses, losses or items and any non-cash impact of recapitalization or purchase accounting and accounting changes or restatements (**provided**, in each case, that if any non-cash charges represent an accrual or reserve for potential cash items in any future period, (A) such Person may elect not to add back such non-cash charges in the current period and (B) to the extent such Person elects to add back such non-cash charges in the current period, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA to such extent, and excluding amortization of a prepaid cash item that was paid in a prior period),

(e) the amount of any non-controlling interest consisting of income attributable to non-controlling interests of third parties in any non-Wholly Owned Subsidiary deducted (and not added back) in such period in calculating Consolidated Net Income, excluding cash distributions in respect thereof,

(f) (i) any charges, costs, expenses, accruals or reserves in connection with the rollover or acceleration of Equity Interests held by directors, officers, managers and/or employees of such Person or any of its Restricted Subsidiaries or Parent Entities, in each case, to the extent deducted (and not added back) in computing Consolidated Net Income for such period and (ii) the amount of fees, expenses and indemnities paid to directors, including of the Issuer or any Parent Entity thereof,

(g) Losses or discounts on sales of receivables and related assets in connection with any permitted receivables financing,

(h) cash receipts (or any netting arrangements resulting in reduced cash expenditures) not included in the calculation of Consolidated Net Income in any period to the extent non-cash gains relating to such income were deducted in the calculation of Consolidated EBITDA pursuant to paragraph (3) below for any previous period and not added back,

(i) any costs or expenses incurred by such Person or any Restricted Subsidiary pursuant to any management equity plan or stock option plan or phantom equity plan or any other management or employee benefit plan or agreement, any severance agreement or any stock subscription or shareholder agreement, to the extent that such costs or expenses are non-cash or otherwise funded with cash proceeds contributed to the capital of such Person or net proceeds of an issuance of Equity Interests of such Person (other than Disqualified Equity Interests),

(j) any net pension or other post-employment benefit costs representing amortization of unrecognized prior service costs, actuarial losses, including amortization of such amounts arising in prior periods, amortization of the unrecognized net obligation (and loss or cost) existing at the date of initial application of FASB Accounting Standards Codification Topic 715—*Compensation—Retirement Benefits*, and any other items of a similar nature,

(k) with respect to any joint venture that is not a Restricted Subsidiary, an amount equal to the proportion of those items described in clauses (b) and (c) above relating to such joint venture corresponding to such Person and its Restricted Subsidiaries' proportionate share of such joint venture's Consolidated Net Income (determined as if such joint venture were a Restricted Subsidiary),

(l) [reserved], *plus*

(m) adjustments consistent with Regulation S-X of the Securities Act, *plus*

(2) without duplication, the amount of "run rate" cost savings, operating expense reductions and synergies related to any Specified Event (as defined below) projected by such Person in good faith to be realized as a result of actions that have been taken or initiated or are expected to be taken (in the good faith determination of such Person), including any cost savings, expenses and charges (including restructuring and integration charges) in connection with, or incurred by or on behalf of, any joint venture of such Person or any of its Restricted Subsidiaries (whether accounted for on the financial statements of any such joint venture or such Person) with respect to any Investment, Disposition, Incurrence or repayment or prepayment of Indebtedness, Restricted Payment, New Project, Subsidiary designation, restructuring, cost saving initiative or other initiative (collectively, a "**Specified Event**"), whether initiated, before, on or after the Effective Date, within 24 months after such Specified Event (which cost savings shall be added to Consolidated EBITDA until fully realized and calculated on a pro forma basis as though such cost savings had been realized on the first day of the relevant period), net of the amount of actual benefits realized from such actions; **provided** that (i) such cost savings are reasonably quantifiable and factually supportable (whether or not permitted to be added back under the rules and regulations of the SEC), (ii) no cost savings, operating expense reductions or synergies shall be added pursuant to this clause (2) to the extent duplicative of any expenses or charges relating to such cost savings, operating expense reductions or synergies that are included in clause (1) above (it being understood and agreed that "run rate" shall mean the full recurring benefit that is associated with any action taken) and (iii) the share of any such cost savings, expenses and charges with respect to a joint venture that are to be allocated to such Person or any of its Restricted Subsidiaries shall not exceed the total amount thereof for any such joint venture multiplied by the percentage of income of such venture expected to be included in Consolidated EBITDA for the relevant Test Period;

less

(3) without duplication and to the extent included in arriving at such Consolidated Net Income, the sum of the following amounts for such period:

(a) non-cash gains (excluding any non-cash gain to the extent it represents the reversal of an accrual or reserve for a potential cash item that reduced Consolidated Net Income or Consolidated EBITDA in any prior period, and

(b) the amount of any non-controlling interest consisting of loss attributable to non-controlling interests of third parties in any non-Wholly Owned Subsidiary added (and not deducted) in such period from Consolidated Net Income,

in each case, as determined on a consolidated basis for such Person and its Restricted Subsidiaries. For purposes of calculating Consolidated EBITDA in connection with any Limited Condition Transaction, the Consolidated EBITDA of such Person and its Restricted Subsidiaries shall be adjusted to reflect such pro forma adjustments as are appropriate and consistent with the pro forma adjustment provisions set forth in **Section 1.11**.

provided that

(I) there shall be included in determining Consolidated EBITDA for any period, without duplication, the Acquired EBITDA of any Person, property, business or asset acquired by the Borrower or any Restricted Subsidiary during such period (other than any Unrestricted Subsidiary) to the extent not subsequently sold, transferred or otherwise Disposed of during such period (but not including the Acquired EBITDA of any related Person, property, business or assets to the extent not so acquired) (each such Person, property, business or asset acquired, including pursuant to a transaction consummated prior to the Effective Date, and not subsequently so Disposed of, an "**Acquired Entity or Business**"), and the Acquired EBITDA of any Unrestricted Subsidiary that is converted into a Restricted Subsidiary during such period (each, a "**Converted Restricted Subsidiary**"), in each case based on the Acquired EBITDA of such Pro Forma Entity for such period (including the portion thereof occurring prior to such acquisition or conversion) determined on a historical pro forma basis, and

(II) there shall be excluded in determining Consolidated EBITDA for any period the Disposed EBITDA of any Person, property, business or asset sold, transferred or otherwise Disposed of, closed or classified as discontinued operations by the Borrower or any Restricted Subsidiary to the extent not subsequently reacquired, reclassified or continued, in each case, during such period (each such Person (other than an Unrestricted Subsidiary), property, business or asset so sold, transferred or otherwise Disposed of, closed or classified, a "**Sold Entity or Business**"), and the Disposed EBITDA of any Restricted Subsidiary that is converted into an Unrestricted Subsidiary during such period (each, a "**Converted Unrestricted Subsidiary**"), in each case based on the Disposed EBITDA of such Sold Entity or Business or Converted Unrestricted Subsidiary for such period (including the portion thereof occurring prior to such sale, transfer, disposition, closure, classification or conversion) determined on a historical pro forma basis.

Notwithstanding anything to the contrary contained herein and subject to adjustment as provided in **clauses (I)** and **(II)** above of the immediately preceding proviso with respect to acquisitions and Dispositions occurring prior to, on or following the Effective Date and, without duplication of any adjustments already included in the amounts below, other adjustments contemplated by **Section 1.11**, **clause (2)** above and under the foregoing proviso and adjustments as provided under **clause (c)** above, Consolidated EBITDA shall be deemed to be $44,678,000, $113,258,000, $113,564,000 and $86,120,000, respectively, for the fiscal quarters ended March 28, 2020, June 26, 2020 and September 26, 2020 and January 2, 2021.

"**Consolidated First Lien Debt**" means, Consolidated Debt that is secured by Liens on the Collateral that do not rank junior in priority to the Liens on the Collateral securing the Secured Obligations.

"**Consolidated First Lien Leverage Ratio**" means, as of any date of determination, the ratio of (a) Consolidated First Lien Debt as of the last day of the most recently ended Test Period on or prior to such date of determination to (b) Consolidated EBITDA for such Test Period, in each case of the Borrower and the Restricted Subsidiaries.

"**Consolidated Fixed Charge Coverage Ratio**" means, as of any date of determination, the ratio of (a) Consolidated EBITDA for the most recent Test Period ended on or prior to such date of determination to (b) Fixed Charges for such period; provided that, for purposes of calculating the Consolidated Fixed Charge Coverage Ratio for any period ending prior to the first anniversary of the Effective Date, Fixed Charges shall be an amount equal to actual Fixed Charges from the Effective Date through the date of determination multiplied by a fraction the numerator of which is 365 and the denominator of which is the number of days from the Effective Date through the date of determination.

"**Consolidated Interest Expense**" means, with respect to any Person and its Restricted Subsidiaries, the sum of (1) cash interest expense (including that attributable to Financing Lease Obligations), net of (i) cash interest income and (ii) non-cash interest income resulting from the amortization of original issue premium from the Incurrence of Indebtedness of such Person and its Restricted Subsidiaries, of such Person and its Restricted Subsidiaries with respect to all outstanding Indebtedness of such Person and its Restricted Subsidiaries, including all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptance financing and net costs under hedging agreements, plus (2) non-cash interest expense resulting solely from (i) the amortization of original issue discount from the Incurrence of Indebtedness of such Person and its Restricted Subsidiaries at less than par, other than with respect to Indebtedness Incurred in connection with the Transactions, and (ii) pay-in-kind interest expense of such Person and its Restricted Subsidiaries but excluding, for the avoidance of doubt, (a) amortization of deferred financing costs, debt issuance costs, commissions, fees and expenses and any other amounts of non-cash interest other than specifically referred to in clause (2) above (including as a result of the effects of acquisition method accounting or pushdown accounting), (b) non-cash interest expense attributable to the movement of the mark-to-market valuation of Indebtedness or obligations under Swap Obligations or other derivative instruments pursuant to FASB Accounting Standards Codification Topic 815—Derivatives and Hedging, (c) any one-time cash costs associated with breakage in respect of hedging agreements for interest rates, (d) commissions, discounts, yield, make-whole premium and other fees and charges (including any interest expense) incurred in connection with any permitted receivables financing, (e) any cash interest expense consisting of "additional interest" or "special interest" for failure to timely comply with registration rights obligations, (f) any interest expense attributable to the exercise of appraisal rights and the settlement of any claims or actions (whether actual, contingent or potential), with respect thereto and with respect to any acquisition or Investment, (g) any payments with respect to make-whole premiums or other breakage costs of any Indebtedness, (h) penalties and interest relating to taxes, (i) accretion or accrual of discounted liabilities not constituting Indebtedness, (j) any interest expense attributable to a Parent Entity resulting from push-down accounting, (k) any expense resulting from the discounting of Indebtedness in connection with the application of recapitalization or purchase accounting, all as calculated on a

consolidated basis in accordance with GAAP, (l) any capitalized interest, whether paid in cash or otherwise, and any other non-cash interest expense, (m) any expensing of bridge, arrangement, structuring, commitment or other financing fees or closing payments (excluding, for the avoidance of doubt, any commitment fees), and (n) any lease, rental or other expense in connection with Non-Financing Lease Obligations.

For purposes of this definition, interest on a financing or capital lease shall be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such financing or capital lease in accordance with GAAP.

"**Consolidated Net Income**" means, with respect to any Person for any period, the aggregate of the net income (loss) of such Person for such period, determined on a consolidated basis, excluding (and excluding the effect of), without duplication:

(i) (A) extraordinary, non-recurring or unusual gains or losses (less all fees and expenses relating thereto) or expenses (including any unusual or non-recurring operating expenses directly attributable to the implementation of cost savings initiatives and any accruals or reserves in respect of any extraordinary, non-recurring or unusual items) (other than restructuring charges, accruals or reserves and related costs described in clause (B) below), severance, relocation costs, integration and plants' or facilities' opening costs and other business optimization expenses (including related to new product or service introductions and other strategic or cost savings initiatives), any expense or charge related to the refresh, renovation or remodeling of stores or the introduction of new store concepts, signing costs, recruitment, retention or completion bonuses, other executive recruiting and retention costs, transition costs, costs related to closure/consolidation of facilities or bases and curtailments or modifications to pension and post-retirement employee benefit plans (including any settlement of pension liabilities and charges resulting from changes in estimates, valuations and judgments) and (B) restructuring charges, accruals or reserves (including restructuring and integration costs related to acquisitions after the Effective Date and adjustments to existing reserves), whether or not classified as restructuring expense on the consolidated financial statements,

(ii) the cumulative effect of a change in accounting principles and changes as a result of adoption or modification of accounting policies during such period to the extent included in Consolidated Net Income, whether effective through a cumulative effect adjustment or a retroactive application,

(iii) the net income for such period of any Person that is an Unrestricted Subsidiary and any Person that is not the Borrower a Subsidiary or that is accounted for by the equity method of accounting; **provided** that Consolidated Net Income shall be increased by the amount of dividends or distributions or other payments that are actually paid in cash or Cash Equivalents (or if not paid in cash or Cash Equivalents, but later converted into cash or Cash Equivalents, upon such conversion) by such Person to the referent Person or a Restricted Subsidiary thereof during such period,

(iv) any costs, fees and expenses (including any transaction or retention bonus or similar payment) incurred during such period, or any amortization thereof for such period, in connection with any Acquisition, Investment, recapitalization, Disposition, spin-off transaction, Incurrence or repayment of Indebtedness, issuance of equity securities, refinancing transaction or amendment or other modification of any debt

instrument (in each case, including any such transaction consummated prior to the Effective Date and any such transaction undertaken but not completed) and any charges or non-recurring merger costs incurred during such period as a result of any such transaction, in each case whether or not successful (including, for the avoidance of doubt, the effects of expensing all transaction-related expenses in accordance with FASB Accounting Standards Codification Topic 805—*Business Combinations* and gains or losses associated with FASB Accounting Standards Codification Topic 460—*Guarantees*), including (i) such fees, expenses or charges relating to the Transactions, including all Transaction Expenses and (ii) any amendment or modification of this Agreement, the other Loan Documents, the Senior Secured Notes or any other Indebtedness,

(v) any income (loss) for such period attributable to the early extinguishment of Indebtedness, Swap Obligations or other derivative instruments (including deferred financing costs written off and premiums paid),

(vi) (i) expenses and costs that result from the issuance, rollover, acceleration or payment of stock-based awards, partnership interest-based awards and similar incentive-based compensation awards or arrangements, including with respect to any profits-interest relating to membership interests or partnership interests in any limited liability company or partnership or any such charge or expense arising from grants of stock appreciation or similar rights, options, restricted stock or equity incentive programs, and (ii) the amount of payments made to option, phantom equity or profits interests holders of such Person or any of its Parent Entities in connection with, or as a result of, any distribution made to equity holders of such Person or its Parent Entities, which payments are being made to compensate such option, phantom equity or profits interests holders as though they were equity holders at the time of, and entitled to share in, such distribution, including any cash consideration for any repurchase of equity, in each case, to the extent permitted under this Agreement (including expenses relating to distributions made to equity holders of such Person or any of its Parent Entities resulting from the application of FASB Accounting Standards Codification Topic 718—Compensation—Stock Compensation),

(vii) any income (loss) attributable to deferred compensation plans or trusts,

(viii) any gain (loss) on asset sales, disposals or abandonments (other than (i) asset sales, disposals or abandonments in the ordinary course of business and (ii) unless the Borrower otherwise elects, assets held for sale) or income (loss) from discontinued operations (but if such operations are classified as discontinued due to the fact that they are subject to an agreement to dispose of such operations, only when and to the extent such operations are actually disposed of),

(ix) any non-cash gain (loss) attributable to the mark to market movement in the valuation of Swap Obligations or other derivative instruments pursuant to FASB Accounting Standards Codification Topic 815—*Derivatives and Hedging* or mark to market movement of other financial instruments pursuant to FASB Accounting Standards Codification Topic 825—*Financial Instruments* in such period; **provided** that any cash payments or receipts relating to transactions realized in a given period shall be taken into account in such period,

(x) any non-cash gain (loss) related to currency remeasurements of Indebtedness (including the net loss or gain resulting from Swap Obligations for currency exchange risk and revaluations of intercompany balances and other balance sheet items),

(xi) any non-cash expenses, accruals or reserves related to adjustments to historical tax exposures (**provided**, in each case, that the cash payment in respect thereof in such future period shall be subtracted from Consolidated Net Income for the period in which such cash payment was made),

(xii) any impairment charge or asset write-off or write-down (including related to intangible assets (including goodwill), long-lived assets, and investments in debt and equity securities),

(xiii) solely for the purpose of determining the amount available under **clause (a)(i)** of the definition of "Available Amount," the net income for such period of any Restricted Subsidiary (other than any Loan Party) shall be excluded to the extent the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of its net income is not at the date of determination permitted without any prior governmental approval (which has not been obtained) or, directly or indirectly, is otherwise restricted by the operation of the terms of its Organizational Documents, any instrument, or Requirements of Law applicable to that Restricted Subsidiary or its stockholders (other than: (A) restrictions that have been legally waived or released, (B) restrictions pursuant to this Agreement or the Senior Secured Notes Indenture and (C) restrictions arising pursuant to an agreement or instrument if the encumbrances and restrictions contained in any such agreement or instrument taken as a whole are not materially less favorable to the Lenders than the encumbrances and restrictions contained in the Loan Documents (as determined by the Borrower in good faith)), unless such restriction with respect to the payment of dividends or similar distributions has been legally waived or released (or the Borrower reasonably believes such restriction could be waived or released and is using commercially reasonable efforts to pursue such waiver or release); **provided** that Consolidated Net Income of such Person will be increased by the amount of dividends or other distributions or other payments actually paid in cash or Cash Equivalents (or, if not paid in cash or Cash Equivalents, but later converted into cash or Cash Equivalents, upon such conversion) to such Person or a Restricted Subsidiary thereof in respect of such period, to the extent not already included therein,

(xiv) any non-cash interest expense or non-cash interest income, in each case, to the extent that there is no associated cash disbursement or receipt,

(xv) realized or unrealized foreign exchange gains or losses resulting from the impact of foreign currency changes on the valuation of assets and liabilities on the balance sheet of such Person and its Restricted Subsidiaries, and

(xvi) income or expense related to changes in the fair value of contingent liability in connection with earn-out obligations and similar liabilities in connection with any Acquisition or Investments permitted hereunder.

There shall be excluded from Consolidated Net Income for any period the effects from applying acquisition method or purchase accounting, including applying acquisition method or purchase accounting to inventory, property and equipment, loans and leases, software and other intangible assets and deferred revenue (including deferred costs related thereto and deferred rent) required or permitted by

GAAP and related authoritative pronouncements (including the effects of such adjustments pushed down to such Person and its Restricted Subsidiaries), as a result of any acquisition or Investment consummated prior to the Effective Date and any other acquisition (by merger, consolidation, amalgamation or otherwise) or other Investment or the amortization or write-off of any amounts thereof.

In addition, to the extent not already included in Consolidated Net Income, Consolidated Net Income shall include (i) the amount of proceeds received or due from liability, casualty or business interruption insurance or reimbursement of expenses and charges that are covered by indemnification and other reimbursement provisions in connection with any acquisition or other Investment or any permitted Disposition hereunder (net of any amount so added back in any prior period to the extent not so reimbursed within a two year period) and (ii) the amount of any cash tax benefits related to the tax amortization of intangible assets in such period.

"**Consolidated Secured Debt**" means, Consolidated Debt that is secured by Liens on the Collateral.

"**Consolidated Secured Leverage Ratio**" means, as of any date of determination, the ratio of (a) Consolidated Secured Debt as of the last day of the most recently ended Test Period on or prior to such date of determination to (b) Consolidated EBITDA for such Test Period, in each case of the Borrower and the Restricted Subsidiaries.

"**Consolidated Total Assets**" means, as of any date of determination, the total assets of the Borrower and the Restricted Subsidiaries, determined on a consolidated basis in accordance with GAAP, as set forth on the consolidated balance sheet of the Borrower as of the last day of the most recently ended Test Period on or prior to such date of determination.

"**Consolidated Total Leverage Ratio**" means, as of any date of determination, the ratio of (a) Consolidated Debt as of the last day of the most recently ended Test Period on or prior to such date of determination to (b) Consolidated EBITDA for such Test Period, in each case of the Borrower and the Restricted Subsidiaries.

"**Consolidated Working Capital**" mean, at any date, the excess of (a) the sum of all amounts (excluding all cash and Cash Equivalents) that would, in conformity with GAAP, be set forth opposite the caption "total current assets" (or any like caption) on a consolidated balance sheet of the Borrower and the Restricted Subsidiaries at such date less (b) the sum of all amounts that would, in conformity with GAAP, be set forth opposite the caption "total current liabilities" (or any like caption) on a consolidated balance sheet of the Borrower and the Restricted Subsidiaries on such date, including (for purposes of both **clauses (a)** and **(b)**) current and long-term deferred revenue but excluding (for purposes of both **clauses (a)** and **(b)** above, as applicable), without duplication, (i) the current portion of any Consolidated Debt, (ii) all Indebtedness (including LC Exposure) under the Revolving Facility, any Incremental Revolving Facility, any Extended Revolving Facility or any other revolving credit facility that is effective in reliance on **Section 6.01(o)**, to the extent otherwise included therein, (iii) the current portion of interest, (iv) the current portion of current and deferred income taxes, (v) non-cash compensation costs and expenses, (vi) any other liabilities that are not Indebtedness and will not be settled in cash or Cash Equivalents during the next succeeding twelve month period after such date, (vii) the effects from applying recapitalization or purchase accounting, (viii) any earn out obligations until 30 days after such obligation becomes contractually due and payable and any earn-out obligation that becomes contractually due and payable to the extent (A) such Person is indemnified for the payment thereof by a solvent Person reasonably acceptable to the Administrative Agent or (B) amounts to be applied to the payment thereof are in escrow through customary arrangements and (ix) any asset or liability in respect of net obligations of such Person in respect of Swap Agreements entered into in the

ordinary course of business; **provided** that Consolidated Working Capital shall be calculated without giving effect to (x) the depreciation of the Dollar relative to other foreign currencies or (y) changes to Consolidated Working Capital resulting from non-cash charges and credits to consolidated current assets and consolidated current liabilities (including, without limitation, derivatives and deferred income tax).

"**Contractual Obligation**" means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound other than the Secured Obligations.

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

"**Controlled Investment Affiliate**" means, as to any Person, any other Person, which directly or indirectly controls, is controlled by, or is under common control with such Person and is organized by such Person (or any Person controlling such Person) primarily for making direct or indirect equity or debt investments in the Borrower and/or other Persons.

"**Controlling Shareholder**" means ARTAL, the Invus Group, LLC, Invus L.P. or any investment or similar affiliated fund managed by ARTAL, the Invus Group, LLC, Invus L.P. or any of their respective Affiliates (in each case, other than any operating portfolio companies).

"**Converted Restricted Subsidiary**" has the meaning assigned to such term in the definition of the term "Consolidated EBITDA."

"**Converted Unrestricted Subsidiary**" has the meaning assigned to such term in the definition of the term "Consolidated EBITDA."

"**Covered Entity**" means any of the following: (a) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b), (b) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b) or (c) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

"**Covered Party**" has the meaning assigned to such term in **Section 9.20**.

"**Credit Agreement Refinancing Indebtedness**" means

(a) Permitted Equal Priority Refinancing Debt,

(b) Permitted Junior Priority Refinancing Debt or

(c) Permitted Unsecured Refinancing Debt;

provided that, in each case, such Indebtedness is Incurred to Refinance, in whole or in part, existing Term Loans or existing Revolving Loans (or unused Revolving Commitments), any then-existing Incremental Revolving Loans (or unused Incremental Revolving Commitments), any then-existing Extended Revolving Loans (or unused Extended Revolving Commitments), or any Loans under any then-existing Incremental Term Loan Facility (or, if applicable, unused Commitments thereunder) ("**Refinanced Debt**"); **provided**, **further**, that

(i) except for any of the following that are only applicable to periods after the Latest Maturity Date, the covenants, events of default and guarantees of such Indebtedness (excluding, for the avoidance of doubt, interest rates (including through fixed interest rates or payment-in-kind interest), interest margins, rate floors, fees, funding discounts, closing payments, original issue discounts, maturity, currency types and denominations and prepayment or redemption premiums and terms) (when taken as a whole) are determined by the Borrower to be either (A) consistent with market terms and conditions and conditions at the time of Incurrence or effectiveness (as determined by the Borrower in good faith) or (B) not materially more restrictive on the Borrower and the Restricted Subsidiaries than those applicable to the Refinanced Debt, when taken as a whole (**provided** that if the documentation governing such Credit Agreement Refinancing Indebtedness contains a Previously Absent Financial Maintenance Covenant, the Administrative Agent shall be given prompt written notice thereof and this Agreement shall be amended to include such Previously Absent Financial Maintenance Covenant for the benefit of each Facility (**provided**, **however**, that if (x) both the Refinanced Debt and the related Credit Agreement Refinancing Indebtedness that includes a Previously Absent Financial Maintenance Covenant consists of a revolving credit facility (whether or not the documentation therefor includes any other facilities) and (y) the applicable Previously Absent Financial Maintenance Covenant is a "springing" financial maintenance covenant for the benefit of such revolving credit facility or a covenant only applicable to, or for the benefit of, a revolving credit facility, the Previously Absent Financial Maintenance Covenant shall only be required to be included in this Agreement for the benefit of each Revolving Facility hereunder (and not for the benefit of any term loan facility hereunder) and such Credit Agreement Refinancing Indebtedness shall not be deemed "more restrictive" solely as a result of such Previously Absent Financial Maintenance Covenant benefiting only such Revolving Facilities)); **provided** that a certificate of a Responsible Officer of the Borrower delivered to the Administrative Agent at least five Business Days prior to the Incurrence of such Indebtedness, together with a reasonably detailed description of the material terms and conditions of such Indebtedness or drafts of the documentation relating thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the foregoing requirement shall be conclusive evidence that such terms and conditions satisfy the foregoing requirement unless the Administrative Agent notifies the Borrower within such five Business Day period that it disagrees with such determination (including a reasonable description of the basis upon which it disagrees),

(ii) any such Indebtedness which Refinances, in whole or in part, existing Term Loans, shall have a final maturity date that is equal to or later than the earlier of (x) the final maturity date of the Refinanced Debt and (y) the Latest Maturity Date, and shall have a Weighted Average Life to Maturity equal to or greater than the lesser of (1) the Weighted Average Life to Maturity of the Refinanced Debt and (2) the greatest Weighted Average Life to Maturity of any Class of Term Loans remaining outstanding immediately after giving effect to such Refinancing; **provided** that the foregoing requirements of this **clause (ii)** shall not apply to the extent such Indebtedness (1) constitutes a customary bridge facility, so long as the long-term Indebtedness into which any such customary bridge facility is to be converted or exchanged satisfies the requirements of this **clause (ii)** and such conversion or exchange is subject only to conditions customary for similar conversions or exchanges or (2) is subject to Customary Escrow Provisions (but only for so long as such Indebtedness is so subject),

(iii) any such Indebtedness which Refinances any existing Revolving Loans (or unused Revolving Commitments), any then-existing Incremental Revolving Loans (or unused Incremental Revolving Commitments) or any then-existing Extended Revolving Loans (or unused Extended Revolving Commitments) shall have a maturity that is equal to or later than the earlier of (x) the maturity of such Refinanced Debt and (y) the Latest Maturity Date, and shall not require any mandatory commitment reductions prior to the maturity of such Refinanced Debt,

(iv) such Indebtedness shall not have a greater principal amount (or, if higher, shall not have a greater accreted value, if applicable) than the principal amount (or, if higher, accreted value, if applicable) of the Refinanced Debt plus accrued interest, dividends, fees and premiums (including tender premiums) (if any) thereon, defeasance costs, underwriting discounts and fees and expenses (including original issue discounts, closing payments, upfront fees and similar fees) associated with the Refinancing plus an amount equal to any existing commitments unutilized and letters of credit undrawn plus an amount equal to any dollar for dollar usage of any other basket set forth in **Section 6.01**,

(v) such Refinanced Debt shall be repaid, repurchased, redeemed, defeased, acquired or satisfied and discharged on a dollar-for-dollar basis, and all accrued interest, fees and premiums (including tender premiums) (if any) in connection therewith shall be paid substantially concurrently with the date such Credit Agreement Refinancing Indebtedness is Incurred or made effective, and if such Refinanced Debt consists of Revolving Loans (or unused Revolving Commitments), Incremental Revolving Loans (or unused Incremental Revolving Commitments) or Extended Revolving Loans (or unused Extended Revolving Commitments), shall be accompanied by a permanent reduction of Revolving Commitments, Incremental Revolving Commitments or Extended Revolving Commitments, as applicable, in an equivalent amount,

(vi) the aggregate unused revolving commitments under such Credit Agreement Refinancing Indebtedness shall not exceed the unused Revolving Commitments, Incremental Revolving Commitments or Extended Revolving Commitments, as applicable, being replaced plus undrawn letters of credit plus an amount equal to a dollar for dollar usage of any other basket set forth in **Section 6.01**,

(vii) in the case of any such Indebtedness in the form of bonds, notes or debentures or which Refinances, in whole or in part, existing Term Loans, the terms thereof shall not require any mandatory repayment, redemption, repurchase, acquisition or defeasance (other than Indebtedness that is subject to Customary Escrow Provisions and otherwise other than (x) in the case of bonds, notes or debentures, customary change of control, asset sale event or casualty, eminent domain or condemnation event offers, AHYDO Catch-Up Payments and customary acceleration any time after an event of default and (y) in the case of any term loans, mandatory prepayments that are on terms (when taken as a whole) not materially more favorable to the lenders or holders providing such Indebtedness than those applicable to the Refinanced Debt (when taken as a whole and as determined by the Borrower in its sole discretion; **provided** that the Borrower may provide written notice to the Administrative Agent of such determination not less than one Business Day prior to the Incurrence of such Credit Agreement Refinancing Indebtedness and such determination by the Borrower shall be deemed conclusive) prior to the maturity date of the Refinanced Debt),

(viii) any Credit Agreement Refinancing Indebtedness may not be guaranteed by any Subsidiaries of the Borrower that do not guarantee the Secured Obligations, and

(ix) any Credit Agreement Refinancing Indebtedness may not be secured by any assets that do not secure the Secured Obligations.

"**Credit Extension**" means the making of a Borrowing or Letter of Credit Extension.

"**Cumulative Consolidated Net Income**" means, as at any date of determination, Consolidated Net Income for the period (taken as one accounting period) commencing on April 4, 2021 and ending on the last day of the most recent fiscal quarter for which financial statements have been delivered pursuant to **Section 5.01(a)** or **5.01(b)**.

"**Cure Amount**" has the meaning assigned to such term in **Section 7.02(a)**.

"**Cure Deadline**" has the meaning assigned to such term in **Section 7.02(a)**.

"**Cure Right**" has the meaning assigned to such term in **Section 7.02(a)**.

"**Customary Escrow Provisions**" means customary prepayment or redemption terms relating to Escrowed Proceeds under escrow arrangements.

"**Customary Intercreditor Agreement**" means (a) to the extent executed in connection with the Incurrence of secured Indebtedness the Liens on the Collateral securing which Indebtedness are, or are intended to rank, equal in priority to the Liens on the Collateral securing the Secured Obligations (but without regard to the control of remedies), at the option of the Borrower and the Administrative Agent acting together in good faith, either (i) any intercreditor agreement substantially in the form of the Equal Priority Intercreditor Agreement or (ii) a customary intercreditor agreement in form and substance reasonably acceptable to the Administrative Agent and the Borrower, which agreement shall provide that the Liens on the Collateral securing such Indebtedness shall rank equal in priority to the Liens on the Collateral securing the Secured Obligations (but without regard to the control of remedies) and (b) to the extent executed in connection with the Incurrence of secured Indebtedness the Liens on the Collateral securing which Indebtedness ranks, or is intended to rank, junior in priority to the Liens on the Collateral securing the Secured Obligations, at the option of the Borrower and the Administrative Agent acting together in good faith, either (i) an intercreditor agreement substantially in the form of the Junior Priority Intercreditor Agreement or (ii) a customary intercreditor agreement in form and substance reasonably acceptable to the Administrative Agent and the Borrower, which agreement shall provide that the Liens on the Collateral securing such Indebtedness shall rank junior in priority to the Liens on the Collateral securing the Secured Obligations.

"**Debt Fund Affiliate**" means any Affiliate of the Borrower (other than the Borrower or any Subsidiary) that is primarily engaged in, or advises funds or other investment vehicles that are engaged in, making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit or securities in the ordinary course and that exercises investment discretion independent from the private equity business of the Controlling Shareholder.

"**Debt Incurrence Prepayment Event**" means any Incurrence by the Borrower or any of the Restricted Subsidiaries of any Indebtedness, but excluding any Indebtedness permitted to be Incurred under **Section 6.01** (other than Incremental Term Loans Incurred in reliance on **clause (i)(x)** of the proviso to **Section 2.20(b)** and, to the extent relating to Term Loans, Credit Agreement Refinancing Indebtedness).

"**Debtor Relief Laws**" means the Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"**Declined Amounts**" has the meaning set forth in **Section 2.11(d)(ii)**.

"**Default**" means any event or condition that constitutes an Event of Default or that upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

"**Default Right**" has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

"**Defaulting Lender**" means at any time, subject to **Section 2.22(b)**, (i) any Lender that has failed for two or more Business Days to comply with its obligations under this Agreement to make a Loan, make a payment to an Issuing Bank in respect of a Letter of Credit or make any other payment due hereunder (each, a "**funding obligation**"), (ii) any Lender that has notified the Administrative Agent, the Borrower or an Issuing Bank in writing, or has stated publicly, that it does not intend to comply with its funding obligations hereunder, (iii) any Lender that has, for three or more Business Days after written request of the Administrative Agent or the Borrower, failed to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (**provided** that such Lender will cease to be a Defaulting Lender pursuant to this **clause (iii)** upon the Administrative Agent's and the Borrower's receipt of such written confirmation), (iv) any Lender with respect to which a Lender Insolvency Event has occurred and is continuing with respect to such Lender or its Parent Company (**provided** that, in each case neither the reallocation of funding obligations provided for in **Section 2.22(a)(ii)** as a result of a Lender's being a Defaulting Lender nor the performance by Non-Defaulting Lenders of such reallocated funding obligations will by themselves cause the relevant Defaulting Lender to become a Non-Defaulting Lender) or (v) any Lender that has become, or a Parent Company of which has become, the subject of a Bail-In Action. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any of **clauses (i)** through **(iv)** above will be conclusive and binding absent manifest error, and such Lender will be deemed to be a Defaulting Lender (subject to **Section 2.22(b)**) upon notification of such determination by the Administrative Agent to the Borrower, the Issuing Banks and the Lenders of the applicable Class.

"**Defaulting Lender Fronting Exposure**" means, at any time there is a Defaulting Lender with respect to the Issuing Banks, such Defaulting Lender's Applicable Percentage of the outstanding Letter of Credit obligations other than Letter of Credit obligations as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof.

"**Designated Non-Cash Consideration**" means the Fair Market Value of consideration that is not deemed to be cash or Cash Equivalents pursuant to **Section 6.06(l)** and that is received by the Borrower or its Restricted Subsidiaries in connection with a Disposition pursuant to **Section 6.06(l)** that is designated as Designated Non-Cash Consideration pursuant to a certificate of a Responsible Officer of the Borrower delivered to the Administrative Agent, setting forth the basis of such valuation (less the amount of the amount of cash or Cash Equivalents received in connection with a subsequent Disposition, redemption or repurchase of, or collection or payment on, such Designated Non-Cash Consideration).

"**Discount Prepayment Accepting Lender**" has the meaning assigned to such term in **Section 2.11(a)(ii)(B)**.

"**Discount Range**" has the meaning assigned to such term in **Section 2.11(a)(ii)(C)**.

"**Discount Range Prepayment Amount**" has the meaning assigned to such term in **Section 2.11(a)(ii)(C)**.

"**Discount Range Prepayment Notice**" means a written notice of a Borrower Solicitation of Discount Range Prepayment Offers made pursuant to **Section 2.11(a)(ii)(C)** substantially in the form of **Exhibit J**.

"**Discount Range Prepayment Offer**" means the written offer by a Term Lender, substantially in the form of **Exhibit K**, submitted in response to an invitation to submit offers following the Auction Agent's receipt of a Discount Range Prepayment Notice.

"**Discount Range Prepayment Response Date**" has the meaning assigned to such term in **Section 2.11(a)(ii)(C)**.

"**Discount Range Proration**" has the meaning assigned to such term in **Section 2.11(a)(ii)(C)**.

"**Discounted Prepayment Determination Date**" has the meaning assigned to such term in **Section 2.11(a)(ii)(D)**.

"**Discounted Prepayment Effective Date**" means in the case of a Borrower Offer of Specified Discount Prepayment or Borrower Solicitation of Discount Range Prepayment Offer, five (5) Business Days following the receipt by each relevant Term Lender of notice from the Auction Agent in accordance with **Section 2.11(a)(ii)(B)**, **Section 2.11(a)(ii)(C)** or **Section 2.11(a)(ii)(D)**, as applicable unless a shorter period is agreed to between the Borrower and the Auction Agent.

"**Discounted Term Loan Prepayment**" has the meaning assigned to such term in **Section 2.11(a)(ii)(A)**.

"**Disposed EBITDA**" means, with respect to any Sold Entity or Business or any Converted Unrestricted Subsidiary for any period, the amount for such period of Consolidated EBITDA of such Sold Entity or Business or such Converted Unrestricted Subsidiary (determined as if references to the Borrower and the Restricted Subsidiaries in the definition of the term "Consolidated EBITDA" were references to such Pro Forma Entity and its subsidiaries that will become Restricted Subsidiaries), all as determined on a consolidated basis for such Sold Entity or Business or such Converted Unrestricted Subsidiary.

"**Disposition**" has the meaning assigned to such term in **Section 6.06**. The terms "**Disposal**", "**Dispose**" and "**Disposed of**" shall have correlative meanings.

"**Disqualified Equity Interest**" means, with respect to any Person, any Equity Interests of such Person which, by their terms, or by the terms of any security into which they are convertible or for which they are putable or exchangeable, or upon the happening of any event, mature or are mandatorily redeemable (other than solely for Equity Interests of such Person or any Parent Entity thereof that would not otherwise constitute Disqualified Equity Interests, and other than solely as a result of a change of control, asset sale, casualty, condemnation or eminent domain) pursuant to a sinking fund obligation or otherwise, or are redeemable at the option of the holder thereof (other than solely as a result of a change of control, asset sale, casualty, condemnation or eminent domain), in whole or in part, in each case prior to the date 91 days after the Latest Maturity Date; **provided**, **however**, that if such Equity Interests are issued to any plan for the benefit of employees of the Borrower or its Subsidiaries or by any such plan to such employees, such Equity Interests shall not constitute Disqualified Equity Interests solely because they may be required to be repurchased by the Borrower or its Subsidiaries or Parent Entities in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, death or disability; **provided**, **further**, that any Equity Interests held by any future, current or former employee,

director, officer, manager or consultant (or their respective Controlled Investment Affiliates or Immediate Family Members, or any Permitted Transferee thereof) of the Borrower, any of its Subsidiaries or any Parent Entity or any other entity in which the Borrower or a Restricted Subsidiary has an Investment and is designated in good faith as an "affiliate" by the Board of the Borrower (or the compensation committee thereof) shall not constitute Disqualified Equity Interests solely because they may be required to be repurchased by the Borroweror its Subsidiaries pursuant to any stockholders' agreement, management equity plan, stock option plan or any other management or employee benefit plan or agreement or in order to satisfy applicable statutory or regulatory obligations.

"**Disqualified Lenders**" means (a) such Persons that have been specified in writing to the Administrative Agent and the Joint Bookrunners on or prior to April 1, 2021 as being "Disqualified Lenders," (b) those Persons who are competitors of the Borrower and its Subsidiaries that are separately identified in writing by the Borrower from time to time to the Administrative Agent after the Effective Date and (c) in the case of each of **clauses (a)** and **(b)**, any of their Affiliates (which, for the avoidance of doubt, shall not include any bona fide debt investment funds that are Affiliates of the Persons referenced in **clause (b)** above) that are either (i) identified in writing to the Administrative Agent by the Borrower on or prior to April 1, 2021 or from time to time after the Effective Date or (ii) clearly identifiable as such solely on the basis of the similarity of such Affiliate's name to an entity identified on the list of Disqualified Lenders; **provided** that no supplement to the list of Disqualified Lenders described in clause (b) shall apply retroactively to disqualify any Person that shall have previously acquired an assignment, participation or other interest in any Loan or Commitment that was effective or the trade date for which occurred prior to the effective date of such supplement; **provided**, **further** that any supplement (or other modification) to the list of Disqualified Lenders shall only become effective three Business Days after such Person is identified in writing to the Administrative Agent and such supplement (or other modification) has been posted by the Administrative Agent on the Platform.

"**Dollars**" or "**$**" refers to lawful money of the United States of America.

"**Domestic Subsidiary**" means any Subsidiary that is not a Foreign Subsidiary.

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

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

"**EEA Resolution Authority**" means any public administrative authority or any Person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"**Effective Date**" means the date on which the conditions specified in **Section 4.01** are satisfied (or waived in accordance with **Section 9.02**) and the Initial Term Loans are funded, which date was April 13, 2021.

"**Effective Yield**" means, as to any Indebtedness on any date of determination, the effective yield paid by the Borrower on such Indebtedness as determined by the Borrower and the Administrative Agent in a manner consistent with generally accepted financial practices, taking into

account (a) the applicable interest rate margins, (b) any interest rate "floors" (the effect of which floors shall be determined in a manner set forth in the proviso below and assuming that, if interest on such Indebtedness is calculated on the basis of a floating rate, that the "Adjusted LIBO Rate" or similar component of such formula is included in the calculation of Effective Yield) or similar devices, (c) any amendment to the relevant interest rate margins and interest rate floors prior to the applicable date of determination and (d) all fees, including upfront or similar fees or original issue discounts (amortized over the shorter of (x) the remaining Weighted Average Life to Maturity of such Indebtedness and (y) the four years following the date of Incurrence thereof, and, if applicable, assuming any Revolving Commitments were fully drawn) payable generally by or on behalf of the Borrower to Lenders or other institutions providing such Indebtedness, but excluding arrangement fees, structuring fees, commitment fees, underwriting fees, closing payments or other fees payable to any lead arranger, bookrunner, manager, agent or Person in a similar capacity (or their Affiliates) in connection with the commitments for or syndication of such Indebtedness and not payable to all Lenders, ticking fees accruing prior to the funding of such Indebtedness, consent or amendment fees for an amendment paid generally to consenting Lenders (and regardless of whether any such fees are paid to, or shared in whole or in part with, any Lender) and any other fees of the type not paid or payable generally by or on behalf of the Borrower to Lenders or other institutions in the syndication of such Indebtedness; **provided** that, with respect to any Indebtedness that includes a "floor", (A) to the extent that the Reference Rate on the date that the Effective Yield is being calculated is less than such floor, the amount of such difference shall be deemed added to the interest rate margin for such Indebtedness for the purpose of calculating the Effective Yield and (B) to the extent that the Reference Rate on the date that the Effective Yield is being calculated is greater than such floor, then the floor shall be disregarded in calculating the Effective Yield.

"**Elected Amount**" has the meaning assigned to such term in **Section 1.11**.

"**Elected Payments**" has the meaning assigned to such term in **Section 2.11(c)**.

"**Eligible Assignee**" means (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund and (d) any other Person, other than, in each case, (i) a natural person (or a holding company, investment vehicle or trust for, or owned and operated by or for the primary benefit of a natural person), (ii) a Defaulting Lender, (iii) any Disqualified Lender, unless the Borrower has affirmatively consented to an assignment to such Person, in which case such Person will not be considered a Disqualified Lender for the purpose of such assignment, or (iv) except as contemplated by **Section 2.11(a)(ii)** or **Section 9.04(g)**, the Borrower or any of its Subsidiaries.

"**Embargoed Person**" means (a) any country, region or territory that is itself the subject or target of any comprehensive Sanctions imposed, administered or enforced from time to time by the U.S. Treasury Department's Office of Foreign Assets Control ("**OFAC**"), the U.S. Department of State, the United Nations Security Council, the European Union, any European Union member state or Her Majesty's Treasury of the United Kingdom (each, a "**Sanctioned Country**") (at the date of this Agreement, Crimea, Cuba, Iran, North Korea and Syria) or (b) any Person that (i) listed in any Sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State, the United Nations Security Council, the European Union, any European Union member state or Her Majesty's Treasury of the United Kingdom, (ii) resides, is organized or chartered, or operates in, a Sanctioned Country and (iii) is owned 50% or greater by any Person or Persons described in the preceding clauses (b)(i) and (b)(ii) or is owned or controlled by the government of a country, region or territory described in the preceding clause (a).

"**EMU**" means the economic and monetary union as contemplated in the Treaty on European Union.

"**EMU Legislation**" means the legislative measures of the EMU for the introduction of, changeover to, or operation of the Euro in one or more member states.

"**Environment**" means ambient air, indoor air, surface water, groundwater, drinking water, land surface and subsurface strata and natural resources such as wetlands, flora and fauna.

"**Environmental Laws**" means all applicable treaties, rules, regulations, codes, ordinances, judgments, orders, decrees and other applicable Requirements of Law, and all applicable injunctions or binding agreements issued, promulgated or entered into by or with any Governmental Authority, in each instance relating to the protection of the Environment, to preservation or reclamation of natural resources, to the Release or threatened Release of Hazardous Material or to the extent relating to exposure to Hazardous Material, to health or safety matters.

"**Environmental Liability**" means any liability, obligation, loss, claim, action, order or cost, contingent or otherwise (including any liability for damages, costs of medical monitoring, costs of environmental remediation or restoration, administrative oversight costs, consultants' fees, fines, penalties and indemnities), of the Borrower or any Restricted Subsidiary directly or indirectly resulting from or based upon (a) any actual or alleged violation of any Environmental Law or permit, license or approval issued thereunder, (b) the generation, use, handling, transportation, storage or treatment of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the Release or threatened Release of any Hazardous Materials or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"**Equal Priority Intercreditor Agreement**" means an Equal Priority Intercreditor Agreement substantially in the form of **Exhibit Q-1** to this Agreement, dated as of the Effective Date, among the Administrative Agent, as collateral agent for the Senior Credit Facilities Secured Parties (as defined therein), The Bank of New York Mellon, as collateral agent for the Indenture Secured Parties (as defined therein), and each Additional Agent (as defined therein) from time to time party thereto for the Additional Equal Priority Secured Parties (as defined therein) of the Series (as defined therein) with respect to which it is acting in such capacity.

"**Equity Interests**" means any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation and including membership interests and partnership interests) and, except to the extent constituting Indebtedness, any and all warrants, rights or options to purchase, acquire or exchange any of the foregoing.

"**Equityholding Vehicle**" means any Parent Entity of the Borrower and any equityholder thereof through which former, current or future officers, directors, employees, managers or consultants of the Borrower or any of its Subsidiaries or Parent Entities hold capital stock of such Parent Entity.

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

"**ERISA Affiliate**" means any trade or business (whether or not incorporated) that, together with the Borrower, is treated as a single employer under Section 414(b) or 414(c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

"**ERISA Event**" means (a) any "reportable event," as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30-day notice period is waived); (b) with respect to a Plan, a failure to satisfy the minimum funding standard (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Plan, whether or not waived; (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) a determination that any Plan is, or is expected to be, in "at-risk" status (as defined in Section 303(i)(4) of ERISA or Section 430(i)(4) of the Code); (e) a withdrawal by the Borrower or any ERISA Affiliate from a Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (f) the incurrence by the Borrower or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan or Multiemployer Plan; (g) an event or condition which would reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan or the receipt by the Borrower or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (h) the incurrence by the Borrower or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan; or (i) the receipt by the Borrower or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Borrower or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent within the meaning of Title IV of ERISA or in endangered or critical status, within the meaning of Section 305 of ERISA.

"**Escrowed Proceeds**" means the proceeds from the offering of any debt securities or other Indebtedness paid into an escrow account with an independent escrow agent on the date of the applicable offering or Incurrence pursuant to escrow arrangements that permit the release of amounts on deposit in such escrow account upon satisfaction of certain conditions or the occurrence of certain events. The term "Escrowed Proceeds" shall include any interest earned on the amounts held in escrow.

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

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

"**Euro**" and "**€**" mean the single currency of the Participating Member States introduced in accordance with the provisions of Article 109(i)4 of the EU Treaty.

"**Event of Default**" has the meaning assigned to such term in **Section 7.01**.

"**Excess Cash Flow**" means, for any Excess Cash Flow Period, an amount equal to the excess of:

(a) the sum, without duplication, of:

(i) Consolidated Net Income of the Borrower for such period;

(ii) an amount equal to the amount of all non-cash charges to the extent deducted in arriving at such Consolidated Net Income (**provided** that, in each case, if any non-cash charge represents an accrual or reserve for cash items in any future period, the cash payment in respect thereof in such future period shall be subtracted from Excess Cash Flow in such future period);

(iii) decreases in Consolidated Working Capital, decreases in long-term accounts receivable, decreases in long-term prepaid assets and increases in the long-term portion of deferred revenue, in each case, as of the end of such period from the Consolidated Working Capital, long-term accounts receivable, long-term prepaid assets and long-term portion of deferred revenue as of the beginning of such period but excluding any such increase or decrease arising from (i) the Acquisition or Disposition of any Person or asset, outside the ordinary course of business by the Borrower or any Restricted Subsidiary or any Unrestricted Subsidiary designation, (ii) the reclassification during such period of current assets to long-term assets or current liabilities to long-term liabilities, (iii) the application of acquisition method, purchase and/or recapitalization accounting and/or (iv) the effect of any fluctuation in the amount of accrued and contingent obligations under any Swap Agreement;

(iv) an amount equal to the aggregate net non-cash loss on the Disposition of assets, business units or property by the Borrower and the Restricted Subsidiaries during such period (other than Dispositions in the ordinary course of business) to the extent deducted in arriving at such Consolidated Net Income;

(v) cash payments received in respect of Swap Agreements during such period to the extent not included in arriving at such Consolidated Net Income; and

(vi) income tax expense to the extent deducted in arriving at such Consolidated Net Income (net of any adjustments pursuant to clause (ii) of the last paragraph of the definition of "Consolidated Net Income" for cash tax benefits related to the tax amortization of intangible assets in such period);

minus

(b) the sum, without duplication, of:

(i) an amount equal to the amount of all non-cash credits included in arriving at such Consolidated Net Income (including any amounts included in Consolidated Net Income pursuant to the last two paragraph of the definition of "Consolidated Net Income" to the extent such amounts are due but not received during such period, **provided** that such amounts are added to Excess Cash Flow in the period received) (but excluding any non-cash credit to the extent representing the reversal of an accrual or reserve described in clause (a)(ii) above) and cash charges excluded in arriving at such Consolidated Net Income by virtue of clauses (i) through (xvi) of, and the last paragraph of, the definition of the term "Consolidated Net Income";

(ii) the aggregate amount of all principal payments of unsecured Indebtedness of the Borrower and the Restricted Subsidiaries (including (A) all scheduled principal repayments of unsecured Permitted Additional Debt and unsecured Credit Agreement Refinancing Indebtedness, in each case to the extent such payments are permitted hereunder and actually made and (B) the amount of any mandatory redemption, repurchase, prepayment, defeasance, acquisition or similar payment of unsecured Permitted Additional Debt or unsecured Credit

Agreement Refinancing Indebtedness pursuant to the corresponding provisions of the governing documentation thereof, in each such case from the proceeds of any Disposition and that resulted in an increase to Consolidated Net Income (and have not otherwise been excluded under the definition thereof) and not in excess of the amount of such increase but excluding (1) all other prepayments, repurchases, defeasances, acquisitions, redemptions and/or similar payments of unsecured Permitted Additional Debt or unsecured Credit Agreement Refinancing Indebtedness and (2) all prepayments of unsecured revolving credit loans permitted hereunder made during such period (other than in respect of any unsecured revolving credit facility to the extent there is an equivalent permanent reduction in commitments thereunder)), except to the extent financed by the Incurrence of long-term Indebtedness by, or the issuance of Equity Interests by, or the making of capital contributions to, the Borrower or the Restricted Subsidiaries or using the proceeds of any Disposition outside the ordinary course of business;

(iii) an amount equal to the aggregate net non-cash gain on the Disposition of property by the Borrower and the Restricted Subsidiaries during such period (other than the Disposition of property in the ordinary course of business) to the extent included in arriving at such Consolidated Net Income;

(iv) increases in Consolidated Working Capital, increases in long-term accounts receivable, increases in long-term prepaid assets and decreases in the long-term portion of deferred revenue, in each case, as of the end of such period from the Consolidated Working Capital, long-term accounts receivable, long-term prepaid assets and long-term portion of deferred revenue as of the beginning of such period, but excluding any such increase or decrease arising from, (i) the Acquisition or Disposition of any Person or assets outside of the ordinary course of business by the Borrower or any Restricted Subsidiary or any Unrestricted Subsidiary designation, (ii) the reclassification during such period of current assets to long-term assets or current liabilities to long-term liabilities, (iii) the application of acquisition method, purchase and/or recapitalization accounting and/or (iv) the effect of any fluctuation in the amount of accrued and contingent obligations under any Swap Agreement;

(v) the aggregate amount of expenditures actually made by the Borrower and the Restricted Subsidiaries in cash during such period (including expenditures for the payment of financing fees and cash restructuring changes) to the extent that such expenditures are not expensed during such period, except to the extent that such expenditures were financed by the Incurrence of long-term Indebtedness by, or the issuance of Equity Interests by, or the making of capital contributions to, the Borrower or any of the Restricted Subsidiaries or using the proceeds of any Disposition outside the ordinary course of business;

(vi) the aggregate amount of any premium, make-whole or penalty payments actually paid in cash by the Borrower and the Restricted Subsidiaries during such period that are required to be made in connection with any prepayment, redemption, defeasance, acquisition, repurchase and/or similar payment of unsecured Indebtedness, except to the extent that such payments were financed by the Incurrence of long-term Indebtedness by, or the issuance of Equity Interests by, or the making of capital contributions to, the Borrower or any of the Restricted Subsidiaries or using the proceeds of any Disposition outside the ordinary course of business;

(vii) without duplication of any amounts deducted pursuant to clause (e) of the definition of the term "Additional ECF Reduction Amounts", the aggregate amount of all payments paid in cash by the Borrower and the Restricted Subsidiaries during such period in connection with, or necessary to consummate, the Transactions or the Closing Date Refinancing Transactions, except to the extent that such payments were financed by the Incurrence of long-term Indebtedness by, or the issuance of Equity Interests by, or the making of capital contributions to, the Borrower or any Restricted Subsidiary or using the proceeds of any Disposition outside the ordinary course of business;

(viii) amounts excluded under clause (i) of the last paragraph of the definition of "Consolidated Net Income" for such Excess Cash Flow period, to the extent the relevant insurance proceeds have not yet been received;

(ix) income taxes, including penalties and interest, paid in cash in such period;

(x) cash expenditures made in respect of Swap Agreements during such period to the extent not deducted in arriving at such Consolidated Net Income; and

(xi) non-recurring charges incurred in connection with a Franchise Acquisition.

"**Excess Cash Flow Period**" means each Fiscal Year of the Borrower beginning with the Fiscal Year ending on or about December 31, 2022.

"**Exchange Act**" means the Securities and Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (with respect to the definitions of "Change in Control" and "Permitted Holder" only, as in effect on the Effective Date).

"**Excluded Assets**" means:

(a) (i) any fee-owned Real Property with a Fair Market Value of less than $25,000,000; **provided**, Fair Market Value of any such fee-owned Real Property shall be determined at the time of acquisition thereof, or, if acquired prior to the date the applicable Person became a Loan Party, the date such Person became a Loan Party, or, to the extent that any improvements are constructed on any such Real Property after the date of acquisition, on the date of "substantial completion" or similar timing, as determined by the Borrower in consultation with the Administrative Agent, of such improvement, (ii) any leasehold interests of a Loan Party (as tenant, lessee, ground lessee, sublessor, subtenant or sublessee) in Real Property and (iii) any fee-owned Real Property with improvements that are located in an area determined by the Federal Emergency Management Agency to have special floor hazards that would otherwise become subject to a Lien pursuant to Section 5.11(c) hereof;

(b) motor vehicles, aircraft, aircraft engines and other assets subject to certificates of title or ownership to the extent a security interest therein cannot be perfected by a filing of a UCC financing statement;

(c) any asset (including Equity Interests) if, to the extent and for so long as the grant of a Lien thereon to secure the Secured Obligations (i) is prohibited by any Requirements of Law (other than to the extent that any such prohibition would be rendered ineffective pursuant to the Uniform Commercial Code or any other applicable Requirements of Law) or (ii) would result in the forfeiture of any Grantor's (as defined in the Security Agreement) rights in the asset (including, but not limited to, any legally effective prohibition or restriction);

(d) any Excluded Equity Interests;

(e) any property to the extent that such grant of a security interest in or Lien on such property requires a consent not obtained of any Governmental Authority pursuant to any Requirements of Law and any Governmental Authority licenses or state or local Governmental Authority franchises, charters or authorizations, to the extent the grant of a security interest in any such licenses, franchise, charter or authorization would be prohibited or restricted by such license, franchise, charter or authorization (other than to the extent that any such requirement, prohibition or restriction would be rendered ineffective pursuant to the Uniform Commercial Code or any other applicable Requirements of Law);

(f) any contract, license, lease, agreement, permit, instrument, security or franchise agreement or other document to which any Loan Party is a party or any asset, right or property of a Grantor (as defined in the Security Agreement) that is subject to a purchase money security interest, Financing Lease Obligation, similar arrangement or contract, license, lease, agreement, permit, instrument, security or franchise agreement or other document (which shall include any property that is subject to a Lien permitted pursuant to the following clauses of **Section 6.02**: **(a)**, **(c)**, **(e)** (but only in the case of **clauses (a)**, **(c)** and **(j)** of **Section 6.02**) and **(j)**) (and accessions and additions to such assets, rights or property, replacements and products thereof and customary security deposits, related contract rights and payment intangibles) and any of its rights or interests thereunder, in each case only to the extent and for so long as the grant of such security interest or Lien in such contract, license, lease, agreement, permit, instrument, security or franchise agreement or other document or such asset, right or property is prohibited by or constitutes or results or would constitute or result in the invalidation, violation, breach, default, forfeiture or unenforceability of any right, title or interest of such Grantor (as defined in the Security Agreement) under such contract, license, lease, agreement, permit, instrument, security or franchise agreement or other document or purchase money, capital lease or similar arrangement or contract, license, lease, agreement, permit, instrument, security or franchise agreement or other document or creates or would create a right of termination in favor of any other party thereto (other than the Borrower or any Wholly Owned Restricted Subsidiary), or requires consent not obtained of any third party (it being understood and agreed that no Loan Party or Restricted Subsidiary shall be required to seek any such consent), after giving effect to the applicable anti-assignment clauses of the Uniform Commercial Code and Requirements of Law, other than the proceeds thereof the assignment of which is expressly deemed effective under the Uniform Commercial Code or any similar Requirements of Law notwithstanding such prohibition;

(g) those assets as to which the Borrower and the Administrative Agent shall reasonably determine in writing that the costs or other consequences of obtaining or perfecting such a security interest are excessive in relation to the value of the security interest to be afforded thereby;

(h) any intent-to-use trademark application filed in the United States Patent and Trademark Office to the extent that an amendment to allege use or a verified statement of use with respect to such intent-to-use application has not been filed with and accepted by the United States Patent and Trademark Office, but only to the extent that the grant of a Lien thereon would invalidate or otherwise impair such trademark application, and

(i) any property to the extent a security interest in such property would result in material adverse tax consequences to the Borrower or any Subsidiary of the Borrower as reasonably determined by the Borrower in consultation with the Administrative Agent.

"**Excluded Contribution**" means the Net Cash Proceeds, the Fair Market Value of marketable securities or the Qualified Proceeds, in each case received by the Borrower from capital contributions to the common Equity Interests of the Borrower or sales or issuances of common Equity Interests of the Borrower permitted hereunder, in each case, after the Effective Date (other than any amount to the extent used in the Cure Amount), Not Otherwise Applied and designated by the Borrower to the Administrative Agent as an Excluded Contribution within 10 Business Days of the date such capital contributions are made or the date the applicable Equity Interests is issued or sold.

"**Excluded Equity Interests**" means:

(a) any Equity Interest as to which the Borrower and the Administrative Agent reasonably determine in writing that the costs or other consequences of pledging such Equity Interest are excessive in relation to the value of the security interest to be afforded thereby,

(b) (i) solely in the case of any pledge of the Equity Interests of any Foreign Subsidiary or FSHCO to secure the Secured Obligations, any Equity Interests that are Voting Stock of a first-tier Foreign Subsidiary or a first-tier FSHCO in excess of 65% of the total Voting Stock of such first-tier Foreign Subsidiary or first-tier FSHCO, or (ii) Equity Interests of any direct or indirect Subsidiary of a Foreign Subsidiary or FSHCO,

(c) any Margin Stock,

(d) Equity Interests of any Person, other than any Wholly Owned Restricted Subsidiary, to the extent, and for so long as, the pledge of such Equity Interests is prohibited by the terms of any Contractual Obligation, Organizational Document, joint venture agreement or shareholders' agreement applicable to such Person, or creates an enforceable right of termination with respect to the foregoing in favor of any other party thereto (other than the Borrower or any Wholly Owned Restricted Subsidiary),

(e) the Equity Interests of any Unrestricted Subsidiary or of any Special Purpose Subsidiary,

(f) any Equity Interests of any Subsidiary to the extent that the pledge of such Equity Interests would result in material adverse tax consequences to the Borrower or any Subsidiary as reasonably determined by the Borrower in consultation with the Administrative Agent and confirmed in writing by notices to the Administrative Agent,

(g) the Equity Interests in any Minority Investment,

(h) any Equity Interests to the extent, and for so long as, the pledge thereof would be prohibited by any Requirements of Law (including any requirement to obtain the consent of any Governmental Authority to such pledge unless such consent has been obtained) (other than to the extent that any such prohibition or restriction would be rendered ineffective pursuant to the Uniform Commercial Code or any other applicable Requirements of Law), and

(i) any other Equity Interests that constitute Excluded Assets.

"**Excluded Subsidiary**" means

(a) any Subsidiary that is not a Wholly Owned Subsidiary on any date such Subsidiary would otherwise be required to become a Subsidiary Loan Party pursuant to the requirements of **Section 5.10** (for so long as such Subsidiary remains a non-Wholly Owned Subsidiary),

(b) any Subsidiary that is prohibited by (x) Requirements of Law or (y) Contractual Obligation from guaranteeing the Secured Obligations (and for so long as such restrictions or any replacement or renewal thereof is in effect); **provided** that in the case of **clause (y)**, such Contractual Obligation existed on the Effective Date or, with respect to any Subsidiary acquired by the Borrower or a Restricted Subsidiary after the Effective Date (and so long as such Contractual Obligation was not incurred in contemplation of such acquisition), on the date such Subsidiary is so acquired,

(c) any Domestic Subsidiary that is (i) a FSHCO or (ii) a direct or indirect Subsidiary of a Foreign Subsidiary,

(d) any Immaterial Subsidiary (**provided** that the Borrower shall not be permitted to exclude Immaterial Subsidiaries from guaranteeing the Secured Obligations to the extent that (i) the aggregate amount of gross revenue for all Immaterial Subsidiaries (other than Unrestricted Subsidiaries) excluded by this **clause (d)** exceeds 10.0% of the consolidated revenues of the Borrower and its Restricted Subsidiaries that are not otherwise Excluded Subsidiaries by virtue of any of the other clauses of this definition, except for this **clause (d)**, for the Test Period most recently ended on or prior to the date of determination or (ii) the aggregate amount of total assets for all Immaterial Subsidiaries (other than Unrestricted Subsidiaries) excluded by this **clause (d)** exceeds 10.0% of the aggregate amount of Consolidated Total Assets of the Borrower and its Restricted Subsidiaries that are not otherwise Excluded Subsidiaries by virtue of any other clauses of this definition, except for this **clause (d)**, as at the end of the Test Period most recently ended on or prior to the date of determination),

(e) any other Subsidiary with respect to which, in the reasonable judgment of the Administrative Agent and the Borrower (confirmed in writing by notice to the Borrower), the cost or other consequences (including any material adverse tax consequences) of providing a guarantee shall be excessive in view of the benefits to be obtained by the Secured Parties therefrom,

(f) each Foreign Subsidiary and each Unrestricted Subsidiary,

(g) each other Restricted Subsidiary acquired pursuant to an Acquisition or other Investment and financed with secured Indebtedness Incurred pursuant to **Section 6.01(h)** and the Liens securing which are permitted by **Section 6.02(c)** (and, for the avoidance of doubt, not Incurred in contemplation of such Acquisition or other Investment), and each Restricted Subsidiary acquired in such Acquisition or other Investment that guarantees such Indebtedness, in each case to the extent that, and for so long as, the documentation relating to such Indebtedness to which such Restricted Subsidiary is a party prohibits such Subsidiary from guaranteeing the Secured Obligations,

(h) any Subsidiary to the extent that the guarantee of the Secured Obligations would result in material adverse tax consequences to the Borrower or any Subsidiary as reasonably determined by the Borrower in consultation with the Administrative Agent, and confirmed in writing by notice to the Borrower,

(i) any Subsidiary that would require any consent, approval, license or authorization from any Governmental Authority to provide a guarantee unless such consent, approval, license or authorization has been received, or is received after commercially reasonable efforts by such Subsidiary to obtain the same, which efforts may be requested by the Administrative Agent,

(j) any Subsidiary that does not have the legal capacity to provide a guarantee of the Secured Obligations (**provided** that the lack of such legal capacity does not arise from any action or omission of the Borrower or any other Loan Party),

(k) any Special Purpose Subsidiary and

(l) (i) W.W.I. European Services, Ltd. and (ii) W/W Twentyfirst Corporation; **provided** that on and after June 30, 2021 (or such later date as the Administrative Agent may agree), each of W.W.I. European Services, Ltd. and W/W Twentyfirst Corporation shall cease to be an Excluded Subsidiary pursuant to this **clause (l)**.

"**Excluded Swap Obligation**" means, with respect to any Subsidiary Loan Party or the Borrower, (a) any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act (any such obligation, a "**Swap Obligation**"), if, and to the extent that, all or a portion of the guarantee of such Subsidiary Loan Party or the Borrower pursuant to the Guarantee of, or the grant by such Subsidiary Loan Party or the Borrower of a security interest to secure, such Swap Obligation (or any guarantee pursuant to the Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) (i) by virtue of such Loan Party's failure to constitute an "eligible contract participant," as defined in the Commodity Exchange Act and the regulations thereunder (determined after giving pro forma effect to any applicable keep well, support, or other agreement for the benefit of such Loan Party and any and all applicable guarantees of such Loan Party's Swap Obligations by other Loan Parties), at the time the guarantee of (or grant of such security interest by, as applicable) such Loan Party becomes or would become effective with respect to such Swap Obligation or (ii) in the case of a Swap Obligation that is subject to a clearing requirement pursuant to section 2(h) of the Commodity Exchange Act, because such Loan Party is a "financial entity," as defined in section 2(h)(7)(C) of the Commodity Exchange Act, at the time the guarantee of (or grant of such security interest by, as applicable) such Loan Party becomes or would become effective with respect to such Swap Obligation or (b) any other Swap Obligation designated as an "Excluded Swap Obligation" of such Loan Party as specified in any agreement to which the relevant Loan Parties are party, governing such Swap Obligations. If a Swap Obligation arises under a Master Agreement governing more than one Swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to the Swap for which such guarantee or security interest is or becomes excluded in accordance with the first sentence of this definition.

"**Excluded Taxes**" means, with respect to the Administrative Agent, any Lender, any Issuing Bank or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder or under any other Loan Document, (a) Taxes imposed on or measured by its net

income (however denominated) and franchise Taxes imposed on it (in lieu of net income Taxes), including, for the avoidance of doubt, any backup withholding with respect to any such Taxes, as a result of (i) such recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office in, the jurisdiction imposing such Tax or (ii) any other present or former connection between such recipient and the jurisdiction imposing such Tax, other than any connections arising solely from such recipient having executed, delivered, or become a party to, performed its obligations or received payments under, received or perfected a security interest under, sold or assigned an interest in, engaged in any other transaction pursuant to, and/or enforced, any Loan Documents, (b) any branch profits Tax imposed under Section 884(a) of the Code, or any similar Tax, imposed by any jurisdiction described in **clause (a)** above, (c) any Tax that is attributable to a recipient's failure to comply with **Section 2.17(e)**, (d) any U.S. federal withholding Tax imposed pursuant to a Requirement of Law in effect at the time a Lender or Issuing Bank, as applicable, acquires an interest in a Loan or Commitment (other than pursuant to an assignment request by the Borrower under **Section 2.19(b)** or **Section 9.02(c)**) (or, in the case of any Lender which is a flow-through entity for U.S. federal income tax purposes, the later date (if any) on which the Applicable Tax Owner acquired its indirect interest in this Agreement) or designates a new lending office, except to the extent that such Lender (or Applicable Tax Owner) or Issuing Bank (or its assignor, if any) was entitled, immediately prior to the designation of a new lending office (or assignment), to receive additional amounts with respect to such withholding Tax under **Section 2.17(a)** and (e) any withholding Tax imposed pursuant to FATCA.

"**Existing Credit Agreement**" means the Borrower's Credit Agreement dated as of November 29, 2017, as amended.

"**Existing Credit Agreement Refinancing**" means the payment in full of all principal, premium, if any, interest, fees and other amounts due or outstanding under the Existing Credit Agreement, the termination of commitments thereunder and the discharge and release of all Guarantees and Liens existing in connection therewith.

"**Existing Letter of Credit**" means each letter of credit previously issued for the account of the Borrower under the Existing Credit Agreement that (a) is outstanding on the Effective Date and (b) is listed on Schedule 1.02.

"**Existing Senior Unsecured Notes**" means the 8.625% Senior Notes due 2025 of the Borrower issued pursuant to that certain indenture, dated as of the Effective Date, by and among the Borrower, the guarantors party thereto and The Bank of New York Mellon, as trustee.

"**Expected Cure Amount**" has the meaning assigned to such term in **Section 7.02(b)**.

"**Extended Revolving Commitment**" has the meaning assigned to such term in **Section 2.21(a)**.

"**Extended Revolving Facility"** means each Class of Extended Revolving Commitments made pursuant to **Section 2.21(a)**.

"**Extended Revolving Loans**" has the meaning assigned to such term in **Section 2.21(a)**.

"**Extended Term Facility**" means each Class of Extended Term Loans made pursuant to **Section 2.21(a)**.

"**Extended Term Loan Commitment**" has the meaning assigned to such term in **Section 2.21(a).**

"**Extended Term Loans**" has the meaning assigned to such term in **Section 2.21(a)**.

"**Extending Term Lender**" has the meaning assigned to such term in **Section 2.21(a)**.

"**Extension**" has the meaning assigned to such term in **Section 2.21(a)**.

"**Extension Offer**" has the meaning assigned to such term in **Section 2.21(a)**.

"**Facility**" means the Initial Term Loan Facility, any Incremental Term Loan Facility, the Revolving Facility, any Incremental Revolving Facility, any Extended Revolving Facility and any Extended Term Facility, as the context may require.

"**Fair Market Value**" means, with respect to any asset or property or group of assets or property on any date of determination, the price that could be negotiated in an arms'-length transaction between a willing seller and a willing and able buyer, neither of whom is under undue pressure or compulsion to complete the transaction.

"**FATCA**" means Sections 1471 through 1474 of the Code as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), and any current or future regulations issued thereunder or published administrative guidance issued pursuant thereto, any agreement entered into pursuant to Section 1471(b)(1) of the Code, any intergovernmental agreement entered into in connection with the implementation of the foregoing, and any laws, fiscal or regulatory legislation, rules, guidance notes, or official administrative practices adopted pursuant to any such intergovernmental agreement.

"**FCPA**" means the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder.

"**Federal Funds Effective Rate**" means, for any day, the rate per annum calculated by the NYFRB based on such day's federal funds transactions by depository institutions (as determined in such manner as the NYFRB shall set forth on its public website from time to time) and published on the next succeeding Business Day by the NYFRB as the federal funds effective rate; **provided** that if the Federal Funds Effective Rate as so determined shall be less than zero, such rate shall be deemed to be zero for all purposes of this Agreement.

"**Federal Reserve**" means the Board of Governors of the Federal Reserve System of the United States of America, or any successor thereto.

"**Financial Covenant**" means the covenant set forth in **Section 6.11**.

"**Financial Covenant Event of Default**" has the meaning assigned to such term in **Section 7.01(d)**.

"**Financial Officer**" means the chief financial officer, principal accounting officer, treasurer, controller or other financial officer of the Borrower.

"**Financing Lease Obligation**" means, as applied to any Person, an obligation that is required to be accounted for as a financing or capital lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) in accordance with GAAP as in effect on the Effective Date.

"**Financing Transactions**" means, collectively, (a) the execution, delivery and performance by each Loan Party of the Loan Documents to which it is to be a party, (b) the borrowing of Loans, (c) the use of the proceeds thereof and the issuance of Letters of Credit hereunder and (d) the Existing Credit Agreement Refinancing.

"**First Lien Obligations**" means the Secured Obligations, any Permitted Additional Debt Obligations (other than any Permitted Additional Debt Obligations that are unsecured or are secured by a Lien on the Collateral ranking (or intended to rank) junior in priority to the Lien on the Collateral securing the Secured Obligations), any Permitted Equal Priority Refinancing Debt, collectively, and any other Indebtedness secured by a Lien on any or all of the Collateral that ranks, or is intended to rank, on an equal priority with the Liens securing the Secured Obligations.

"**Fiscal Year**" means the four fiscal quarter period of the Borrower ending on the Saturday closest to December 31 (i.e., the "2020 Fiscal Year" refers to the Fiscal Year ended on January 2, 2020).

"**Fixed Amounts**" has the meaning assigned to such term in **Section 1.11**.

"**Fixed Charges**" means, with respect to any Person for any period, the sum, without duplication, of:

(i) Consolidated Interest Expense of such Person for such period,

(ii) all cash dividend payments (excluding items eliminated in consolidation) on any series of Preferred Equity Interests or any Refunding Equity Interests of such Person made during such period, and

(iii) all cash dividend payments (excluding items eliminated in consolidation) on any series of Disqualified Equity Interests made during such period.

"**Flood Documentation**" means, with respect to each Mortgaged Property located in the United States or any territory thereof, (i) a completed "life-of-loan" Federal Emergency Management Agency standard flood hazard determination (together with a notice about Special Flood Hazard Area status and flood disaster assistance duly executed by the Borrower and the applicable Loan Party relating thereto) and (ii) a copy of, or a certificate as to coverage under, and a declaration page relating to, the insurance policies required by **Section 5.03** hereof and the applicable provisions of the Security Documents, each of which shall (A) be endorsed or otherwise amended to include a "standard" or "New York" lender's loss payable or mortgagee endorsement (as applicable), (B) name the Administrative Agent, on behalf of the Secured Parties, as additional insured and loss payee/mortgagee and (C) identify the address of each property located in a Special Flood Hazard Area, the applicable flood zone designation and the flood insurance coverage and deductible relating thereto and (iv) be otherwise in form and substance reasonably satisfactory to the Administrative Agent, the Revolving Lenders and the Borrower.

"**Flood Insurance Laws**" means, collectively, (i) the National Flood Insurance Reform Act of 1994 (which comprehensively revised the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973) as now or hereafter in effect or any successor statute thereto, (ii) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto and (iii) the Biggert-Waters Flood Insurance Reform Act of 2012 as now or hereafter in effect or any successor statute thereto and any and all official rulings and interpretations thereunder or thereof.

"**Foreign Subsidiary**" means any Subsidiary that is organized under the laws of a jurisdiction other than the United States of America, any State thereof or the District of Columbia.

"**Franchise Acquisition**" means the acquisition of any "Weight Watchers" franchise by the Borrower or one of its Restricted Subsidiaries.

"**FSHCO**" means any direct or indirect Domestic Subsidiary that has no material assets other than capital stock (including any debt instrument treated as equity for U.S. federal income tax purposes) and, if any, Indebtedness of one or more CFCs.

"**GAAP**" means 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 entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time; it being understood that, for purposes of this Agreement, all references to codified accounting standards specifically named in this Agreement shall be deemed to include any successor, replacement, amended or updated accounting standard under GAAP.

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

"**Guarantee**" of or by any Person (the "**guarantor**") means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness of any other Person (the "**primary obligor**") in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness (whether arising by virtue of partnership arrangements, by agreement to keep well, to purchase assets, goods, securities or services, to take-or-pay or otherwise) or to purchase (or to advance or supply funds for the purchase of) any security for the payment of such Indebtedness, (ii) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness of the payment thereof, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness, (iv) entered into for the purpose of assuring in any other manner the holders of such Indebtedness of the payment thereof or to protect such holders against loss in respect thereof (in whole or in part) or (v) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness; **provided**, **however**, that the term "Guarantee" shall not include endorsements for collection or deposit, in either case in the ordinary course of business, or customary and reasonable indemnity obligations in effect on the Effective Date or entered into in connection with any acquisition or Disposition of assets permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined in good faith by a Financial Officer. The term "Guarantee" as a verb has a corresponding meaning.

"**Hazardous Materials**" means any substance, material, pollutant, contaminant, chemical, waste, compound or constituent in any form, including petroleum or petroleum by-products or distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes regulated pursuant to or under any Environmental Law.

"**Identified Participating Lenders**" has the meaning assigned to such term in **Section 2.11(a)(ii)(C)**.

"**Identified Qualifying Lenders**" has the meaning assigned to such term in **Section 2.11(a)(ii)(D)**.

"**Immaterial Subsidiary**" means, at any date of determination, any Restricted Subsidiary of the Borrower (a) whose total assets (when combined with the assets of such Restricted Subsidiary's Subsidiaries, after eliminating intercompany obligations) at the last day of the most recent Test Period ended on or prior to such determination date were less than 5.0% of the Consolidated Total Assets of the Borrower and its Restricted Subsidiaries at such date and (b) whose gross revenues (when combined with the revenues of such Restricted Subsidiary's Subsidiaries, after eliminating intercompany obligations) for such Test Period were less than 5.0% of the consolidated revenues of the Borrower and its Restricted Subsidiaries for such period, in each case determined in accordance with GAAP.

"**Immediate Family Members**" means with respect to any individual, such individual's estate, heirs, legatees, distributees, child, stepchild, grandchild or more remote descendant, parent, stepparent, grandparent, spouse, former spouse, qualified domestic partner, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law (including adoptive relationships), any person sharing an individual's household (other than an unrelated tenant or employee) and any trust, partnership or other bona fide estate-planning vehicle the only beneficiaries of which are any of the foregoing individuals or any private foundation or fund that is controlled by any of the foregoing individuals or any donor-advised fund of which any such individual is the donor.

"**Incremental Amendment**" has the meaning set forth in **Section 2.20(g)**.

"**Incremental Base Amount**" means, as of any date of determination,

(a) the greater of (x) $360,000,000 and (y) 100% of Consolidated EBITDA of the Borrower and its Restricted Subsidiaries for the Test Period most recently ended on or prior to such date of determination (measured as of such date) based upon the Internal Financial Statements most recently available on or prior to such date, ***plus***

(b) the aggregate principal amount of (i) Term Loans voluntarily prepaid prior to such date pursuant to **Section 2.11(a)** and (ii) Term Loans assigned to any Purchasing Borrower Party pursuant to **Section 9.04(g)**, but only to the extent that such Term Loans have been canceled, ***plus***

(c) all permanent reductions of Revolving Commitments, Extended Revolving Commitments and Incremental Revolving Commitments pursuant to **Section 2.08(b)** effected prior to such date (for the avoidance of doubt, excluding any such commitment reductions required by the proviso to **Section 2.20(b)** or in connection with the Incurrence of any Credit Agreement Refinancing Indebtedness Incurred to Refinance any Revolving Commitments, Incremental Revolving Commitments and/or Extended Revolving Commitments), ***plus***

(d) all voluntary redemptions, prepayments, repurchases, defeasances, acquisitions or similar payments or permanent reductions of commitments of all other Indebtedness constituting First Lien Obligations, in each case to the extent such Indebtedness was initially Incurred in reliance on **Section 6.01(h)(i)(B)(I)**, **Section 6.01(i)(i)(B)(I)**, **Section 6.01(o)(i)(A)**, **Section 6.01(p)(i)** or **Section 6.01(dd).**

in each case of **clauses (b)**, **(c)** and **(d)**, except to the extent financed by the Incurrence of long term Indebtedness (including, for the avoidance of doubt, any such Indebtedness Incurred under a revolving credit facility, Incurred as Permitted Additional Debt or otherwise Incurred under **Section 2.20**), or the issuance of Equity Interests by, or the making of capital contributions to, the Borrower or any of the Restricted Subsidiaries or using the proceeds of any Disposition outside the ordinary course of business, ***minus***

(e) the aggregate principal amount of Indebtedness incurred pursuant to **Section 2.20(b)(A)**, **Section 6.01(h)(i)(B)(I)**, **Section 6.01(i)(i)(B)(I)**, **Section 6.01(o)(i)(A)** and **Section 6.01(p)(i)**.

"**Incremental Commitments**" has the meaning assigned to such term in **Section 2.20(a)**.

"**Incremental Facilities**" has the meaning assigned to such term in **Section 2.20(a)**.

"**Incremental Limit**" has the meaning assigned to such term in **Section 2.20(b).**

"**Incremental Ratio Debt Amount**" has the meaning assigned to such term in **Section 2.20(b)** and in **Section 6.01(o)**.

"**Incremental Revolving Commitment Increase**" has the meaning assigned to such term in **Section 2.20(a)**.

"**Incremental Revolving Commitment Increase Lender**" has the meaning assigned to such term in **Section 2.20(i)**.

"**Incremental Revolving Commitments**" has the meaning assigned to such term in **Section 2.20(a)**.

"**Incremental Revolving Facility**" means each Class of Incremental Revolving Commitments made pursuant to **Section 2.20(a)**.

"**Incremental Revolving Loans**" means any loan made to the Borrower under a Class of Incremental Revolving Commitments or any Incremental Revolving Commitment Increase.

"**Incremental Term Loan Commitment**" means the Commitment of any Lender to make Incremental Term Loans of a particular Class pursuant to **Section 2.20(a)**.

"**Incremental Term Loan Facility**" means each Class of Incremental Term Loans made pursuant to **Section 2.20**.

"**Incremental Term Loans**" has the meaning assigned to such term in **Section 2.20(a)**.

"**Incur**" means to create, issue, assume, guarantee, incur or otherwise become directly or indirectly liable for any Indebtedness; **provided**, **however**, that any Indebtedness of a Person existing at the time such Person becomes a Restricted Subsidiary (whether by merger, consolidation, acquisition or otherwise) shall be deemed to be incurred by such Person at the time it becomes a Restricted Subsidiary. The term "Incurrence" when used as a noun shall have a correlative meaning. Solely for purposes of determining compliance with **Section 6.01**:

(a) amortization of debt discount or the accretion of principal with respect to a non interest bearing or other discount security;

(b) the payment of regularly scheduled interest in the form of additional Indebtedness of the same instrument or the payment of regularly scheduled dividends on Equity Interests in the form of additional Equity Interests of the same class and with the same terms; and

(c) the obligation to pay a premium in respect of Indebtedness arising in connection with the issuance of a notice of prepayment, redemption, repurchase, defeasance, acquisition or similar payment or making of a mandatory offer to prepay, redeem, repurchase, defease, acquire, or similarly pay such Indebtedness;

will not be deemed to be the Incurrence of Indebtedness.

"**Incurrence-Based Amounts**" has the meaning assigned to such term in **Section 1.11**.

"**Indebtedness**" of any Person means, without duplication:

(a) all obligations of such Person for borrowed money;

(b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments;

(c) all obligations of such Person under conditional sale or other title retention agreements relating to property or assets purchased by such Person;

(d) all obligations of such Person to pay the deferred purchase price of property or services (other than (i) current trade or other ordinary course payables or liabilities or accrued expenses (but not any refinancings, extensions, renewals, or replacements thereof) incurred in the ordinary course of business and maturing within 365 days after the incurrence thereof except if such trade or other ordinary course payables or liabilities or accrued expenses bear interest, (ii) any earn-out or similar obligation, unless such obligation has not been paid within 30 days after becoming due and payable and becomes a liability on the balance sheet of such Person in accordance with GAAP and (iii) obligations resulting from take-or-pay contracts entered into in the ordinary course of business);

(e) all Financing Lease Obligations of such Person;

(f) net obligations under any Swap Agreements;

(g) the maximum amount (after giving pro forma effect to any prior drawings or reductions which have been reimbursed) of all letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds, performance bonds and similar instruments issued or created by or for the account of such Person;

(h) all obligations of such Person with respect to Disqualified Equity Interests;

(i) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed; and

(j) all Guarantees by such Person in respect of any of the foregoing;

provided that Indebtedness shall not include (i) prepaid or deferred revenue arising in the ordinary course of business, (ii) purchase price holdbacks arising in the ordinary course of business in respect of a portion of the purchase price of an asset to satisfy warrants or other unperformed obligations of the seller of such asset, (iii) amounts owed to dissenting equityholders in connection with, or as a result of, their exercise of appraisal rights and the settlement of any claims or actions (whether actual, contingent or potential) with respect thereto (including any accrued interest), with respect to any other Acquisition permitted under the Loan Document, (iv) liabilities associated with customer prepayments and deposits and other accrued obligations (including transfer pricing), in each case incurred in the ordinary course of business, (v) Non-Financing Lease Obligations or other obligations under or in respect of straight-line leases, operating leases or Sale Leasebacks (except resulting in Financing Lease Obligations), (vi) customary obligations under employment agreements and deferred compensation arrangements, (vii) post-closing purchase price adjustments, non-compete or consulting obligations or earn-outs to which the seller in an Acquisition or Investment may become entitled, in each case, to the extent contingent and (viii) Indebtedness of any Parent Entity appearing on the balance sheet of the Borrower or any Restricted Subsidiary solely by reason of "pushdown" accounting under GAAP.

For all purposes hereof, the Indebtedness of any Person shall (A) include the Indebtedness of any partnership or Joint Venture (other than a Joint Venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, except to the extent such Person's liability for such Indebtedness is otherwise limited and only to the extent such Indebtedness would be included in the calculation of Consolidated Debt of such Person and (B) in the case of the Borrower and its Subsidiaries, exclude all intercompany Indebtedness having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms) and made in the ordinary course of business. The amount of any net Swap Obligations on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of Indebtedness of any Person for purposes of **clause (i)** above shall, unless such Indebtedness has been assumed by such Person, be deemed to be equal to the lesser of (i) the aggregate unpaid amount of such Indebtedness and (ii) the Fair Market Value of the property encumbered thereby as determined by such Person in good faith.

"**Indemnified Taxes**" means (a) all Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under this Agreement or any other Loan Document and (b) to the extent not otherwise described in clause (a) of this definition, Other Taxes.

"**Indemnitee**" has the meaning assigned to such term in **Section 9.03(b)**.

"**Independent Financial Advisor**" means an accounting, appraisal, investment banking firm or consultant to Persons engaged in similar businesses of nationally recognized standing that is, in the good faith judgment of the Borrower, qualified to perform the task for which it has been engaged.

"**Industrial Revenue Bond**" means any industrial revenue bond, industrial development bond or similar financings or programs; **provided**, that, to the extent the Borrower or its Restricted Subsidiaries enter into a Sale Leaseback with a Governmental Authority in connection with an Industrial Revenue Bond, the associated lease shall be deemed an operating lease notwithstanding anything to the contrary herein and any investment or other obligations of the Borrower or its Restricted Subsidiaries in connection therewith shall not be deemed to constitute Indebtedness thereunder.

"**Information**" has the meaning assigned to such term in **Section 3.14(a)**.

"**Information Memorandum**" means the Lender Presentation dated March 2021 relating to the Loan Parties and the Financing Transactions.

"**Initial Revolving Facility**" means the Revolving Commitments as of the Effective Date.

"**Initial Term Commitment**" means, with respect to each Lender, the commitment, if any, of such Lender to make an Initial Term Loan hereunder on the Effective Date, expressed as an amount representing the maximum principal amount of the Initial Term Loan to be made by such Lender hereunder, as such commitment may be (a) reduced from time to time pursuant to **Section 2.08** and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to an Assignment and Assumption. The amount of each Lender's Initial Term Commitment as of the Effective Date is set forth on Schedule 2.01. The initial aggregate amount of the Lenders' Initial Term Commitments on the Effective Date is $1,000,000,000.

"**Initial Term Lender**" means a Lender with an Initial Term Commitment or an outstanding Initial Term Loan.

"**Initial Term Loan**" has the meaning assigned to such term in **Section 2.01(a)**.

"**Initial Term Loan Facility**" means the initial term loan facility with respect to the Initial Term Commitments and Initial Term Loans borrowed on the Effective Date.

"**Initial Term Maturity Date**" means the seventh anniversary of the Effective Date; **provided** that if such date is not a Business Day, the "Initial Term Maturity Date" will be the next Business Day immediately following such date.

"**Intellectual Property**" means all worldwide intellectual property and proprietary rights, including Patents, Copyrights, Licenses, Trademarks, Trade Secrets, Domain Names and Software (each such term as defined in the Security Agreement).

"**Intercompany Subordinated Note**" means a promissory note substantially in the form of **Exhibit P**.

"**Internal Financial Statements**" means the most recent annual or quarterly financial statements of the Borrower that are internally available at the Borrower, in any such case, which financial statements present fairly in all material respects the financial position and results of operations of the Borrower and its Subsidiaries on a consolidated basis as of the end of and for such fiscal period in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes.

"**Interest Election Request**" means a request by the Borrower to convert or continue a Borrowing in accordance with **Section 2.07** substantially in the form of **Exhibit R** hereto or such other form as may be reasonably acceptable to the Administrative Agent, including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent, appropriately completed and signed by a Responsible Officer of the Borrower.

"**Interest Payment Date**" means (a) with respect to any ABR Loan, the last Business Day of each March, June, September and December, and (b) with respect to any Eurocurrency Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurocurrency Borrowing with an Interest Period of more than three months' duration, each day prior to the last day of such Interest Period that occurs at intervals of three months' duration after the first day of such Interest Period.

"**Interest Period**" means, with respect to any Eurocurrency Borrowing, the period commencing on the date such Borrowing is disbursed or converted to or continued as a Eurocurrency Borrowing and ending on the date that is one, three or six months thereafter as selected by the Borrower in its Notice of Borrowing (or, upon at least five Business Days' written notice from the Borrower, if agreed to by each Lender participating therein, twelve months or any such other period may be agreed by each such Lender); **provided** that (a) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day, (b) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month at the end of such Interest Period and (c) no Interest Period shall extend beyond the maturity date for the applicable Class of Loans. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

"**Investment**" means, as to any Person, any acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests or Indebtedness or other securities of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of Indebtedness of, or purchase or other acquisition of any other Indebtedness or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person (excluding, in the case of the Borrower and its Restricted Subsidiaries, intercompany loans, advances, or Indebtedness having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms) and made in the ordinary course of business) or (c) the purchase or other acquisition (in one transaction or a series of transactions) of the property and assets or business of another Person or assets constituting a business unit, line of business or division of such Person. The amount, as of any date of determination, of (a) any Investment in the form of a loan or an advance shall be the principal amount thereof outstanding on such date, minus any cash payments actually received by such investor representing repayments of principal and payments of interest in respect of such Investment (to the extent any such aggregate payments to be deducted do not exceed the original principal amount of such Investment), but without any adjustment for write-downs or write-offs (including as a result of forgiveness of any portion thereof) with respect to such loan or advance after the date thereof, (b) any Investment in the form of a Guarantee shall be equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof, as determined in good faith by a Financial Officer, (c) any Investment in the form of a transfer of Equity Interests or other non-cash property or services by the investor to the investee, including any such transfer in the form of a capital contribution, shall be the Fair Market Value (as determined in good faith by a Financial Officer) of such Equity Interests or other property or services as of the time of the transfer, minus any payments actually received by such investor representing a return of capital of, or dividends or other distributions in respect of, such Investment (to the extent such payments do not exceed, in the aggregate, the original amount of such Investment), but without any other adjustment for increases or decreases in value of, or write-ups, write-downs or write-offs with respect to, such Investment after the date of such Investment, and (d) any Investment (other than any Investment referred to in **clause (a)**, **(b)** or **(c)** above) by the specified Person in the form of a purchase or other acquisition for value of any Equity Interests, evidences of Indebtedness or other securities of any other Person shall be the original cost of such Investment, except that the amount of any Investment in the form of a Permitted Business Acquisition shall be the Permitted Business Acquisition Consideration, minus (i) the amount of any portion of such Investment that has been repaid to the investor

as a repayment of principal or a return of capital, and of any payments or other amounts actually received by such investor representing interest, dividends, or other distributions or similar payments in respect of such Investment (to the extent the amounts referred to in **clause (i)** do not, in the aggregate, exceed the original cost of such Investment plus the costs of additions thereto), but without any other adjustment for increases or decreases in value of, or write-ups, write-downs or write-offs with respect to, such Investment after the date of such Investment. For purposes of **Section 6.04**, if an Investment involves the acquisition of more than one Person, the amount of such Investment shall be allocated among the acquired Persons in accordance with GAAP; **provided** that pending the final determination of the amounts to be so allocated in accordance with GAAP, such allocation shall be as reasonably determined by a Financial Officer. For the avoidance of doubt, if the Borrower or any Restricted Subsidiary issues, sells or otherwise Disposes of any Equity Interest of a Person that is a Restricted Subsidiary in a transaction otherwise permitted by this Agreement such that, after giving effect thereto, such Person is no longer a Restricted Subsidiary, any Investment by the Borrower or any Restricted Subsidiary in such Person remaining after giving effect thereto shall not be deemed to be a new Investment at such time.

"**Investment Grade Rating**" means a rating equal to or higher than Baa3 (or the equivalent) by Moody's (with a stable outlook or better) and BBB- (or the equivalent) (with a stable outlook or better) by S&P or an equivalent rating by any other Rating Agency.

"**Investment Grade Securities**" means, (a) securities issued or directly and fully guaranteed or insured by the U.S. government or any agency or instrumentality thereof (other than Cash Equivalents), (b) securities or debt instruments with an Investment Grade Rating, but excluding any debt securities or instruments constituting loans or advances among the Borrower and its Subsidiaries, (c) investments in any fund that invests at least a 95% of its assets in investments of the type described in **clauses (a)** and **(b)** above, which fund may also hold immaterial amounts of cash pending investment or distribution and (d) corresponding instruments in countries other than the United States customarily utilized for high-quality investments.

"**IRS**" means the U.S. Internal Revenue Service.

"**ISP**" means, with respect to any Letter of Credit, the "International Standby Practices 1998" published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be in effect at the time of issuance).

"**Issuing Bank**" means (a) Bank of America, N.A., (b) solely with respect to the Existing Letters of Credit, JPMorgan Chase Bank, N.A. (it being understood and agreed that, notwithstanding anything to the contrary contained herein, in any other Loan Document or otherwise, JPMorgan Chase Bank, N.A. shall have no LC Commitment or other commitment or obligation to issue any additional Letters of Credit under this Agreement or to extend or renew any Existing Letter of Credit) and (c) each Revolving Lender that shall have become an Issuing Bank hereunder as provided in **Section 2.05(k)** (other than any Person that shall have ceased to be an Issuing Bank as provided in **Section 2.05(l)**), each in its capacity as an issuer of Letters of Credit hereunder. Each Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of such Issuing Bank, in which case the term "Issuing Bank" shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.

"**Joint Bookrunners**" means Bank of America, N.A., Goldman Sachs Bank USA, JPMorgan Chase Bank, N.A., KeyBanc Capital Markets Inc. and Truist Securities, Inc., each in its capacity as a joint bookrunner and joint lead arranger.

"**Joint Venture**" means a joint venture, partnership or similar arrangement, whether in corporate, partnership or other legal form.

"**Junior Debt**" means any third-party Indebtedness for borrowed money owing by any Loan Party (and any obligations in respect thereof) that is subordinated expressly by its terms in right of payment to the Loan Document Obligations.

"**Junior Priority Intercreditor Agreement**" means a Junior Priority Intercreditor Agreement substantially in the form of **Exhibit Q-2** to this Agreement, entered into among the Administrative Agent and one or more Junior Representatives for holders of Indebtedness secured by Liens on the Collateral that rank, or are intended to rank, junior in priority to the Liens on the Collateral securing the Secured Obligations, with any immaterial changes and material changes thereto in light of the prevailing market conditions, which material changes shall be posted to the Lenders not less than five Business Days before execution thereof and, if the Required Lenders shall not have objected to such changes within five Business Days after posting, then the Required Lenders shall be deemed to have agreed that the Administrative Agent's entry into such intercreditor agreement (with such changes) is reasonable and to have consented to such intercreditor agreement (with such changes) and to the Administrative Agent's execution thereof.

"**Latest Maturity Date**" means, with respect to any Incurrence, extension or other obtaining of Indebtedness or any issuance of Equity Interests, in each case at any date of determination, the latest maturity or expiration date applicable to any Facility outstanding hereunder as determined on the date of any such Incurrence, issuance, extension or obtaining, including the latest maturity or expiration date of any Incremental Term Loan, any Extended Term Loan, any Incremental Revolving Loan, any Extended Revolving Loan, any Incremental Revolving Commitment or any Extended Revolving Commitment.

"**LC Commitment**" means, with respect to each Issuing Bank, the commitment of such Issuing Bank to issue Letters of Credit hereunder. The amount of each Issuing Bank's LC Commitment is set forth on Schedule 2.01.

"**LC Disbursement**" means a payment made by an Issuing Bank pursuant to a Letter of Credit.

"**LC Exposure**" means, at any time, the sum of (a) the aggregate amount of all Letters of Credit that remains available for drawing at such time and (b) the aggregate amount of all LC Disbursements that have not yet been reimbursed by or on behalf of the Borrower at such time. The LC Exposure of any Lender at any time shall be its Applicable Percentage of the total LC Exposure at such time. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the International Standby Practices (ISP98), such Letter of Credit shall be deemed to be "outstanding" in the amount so remaining available to be drawn. With respect to any Letter of Credit that, by its terms or the terms of any document related thereto, provides for one or more automatic increases in the Stated Amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum Stated Amount is in effect at such time.

"**LCT Election**" has the meaning assigned to such term in **Section 1.10**.

"**LCT Test Date**" has the meaning assigned to such term in **Section 1.10**.

"**Lender Insolvency Event**" means that such Lender or its Parent Company is the subject of a proceeding under any Debtor Relief Laws, or a receiver, trustee, conservator, intervenor or sequestrator or the like has been appointed for such Lender or its Parent Company, or such Lender or its Parent Company has taken any action in furtherance of or indicating its consent to or acquiescence in any such proceeding or appointment under any Debtor Relief Laws.

"**Lenders**" means the Persons listed on **Schedule 2.01** and any other Person that shall have become a party hereto pursuant to an Assignment and Assumption, an Incremental Amendment or an Extended Amendment, in each case, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption.

"**Lending Office**" means for any Lender, the office or offices of such Lender described as such in such Lender's Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Administrative Agent.

"**Letter of Credit**" means any letter of credit issued pursuant to this Agreement and any Existing Letter of Credit other than any such letter of credit that shall have ceased to be a "Letter of Credit" outstanding hereunder pursuant to **Section 9.05**.

"**Letter of Credit Extension**" means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the renewal or increase of the amount thereof.

"**Letter of Credit Maturity Date**" means the date that is five Business Days prior to the Revolving Maturity Date.

"**Letter of Credit Sublimit**" means an amount equal to $25,000,000. The Letter of Credit Sublimit is part of and not in addition to the aggregate Revolving Commitments.

"**LIBO Rate**" means, with respect to any Eurocurrency Borrowing for any Interest Period, the LIBO Screen Rate at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period. Notwithstanding the foregoing, if the LIBO Rate, determined as provided above, would otherwise be less than zero, then the LIBO Rate shall be deemed to be zero for all purposes of this Agreement.

"**LIBO Screen Rate**" means, for any day and time, with respect to any Eurocurrency Borrowing for any Interest Period, the London interbank offered rate as administered by the ICE Benchmark Administration (or any other Person that takes over the administration of such rate) for deposits in Dollars (for delivery on the first day of such Interest Period) for a period equal in length to such Interest Period as displayed on the Reuters screen page that displays such rate (currently page LIBOR01 or LIBOR02) or, in the event such rate does not appear on a page of the Reuters screen, on the appropriate page of such other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion. The term "London interbank offered rate" as used in this definition may be amended to refer to, with only the consent of the Administrative Agent and the Borrower, a comparable successor rate, **provided** that the Lenders shall have received at least five Business Days' prior written notice of such amendment from the Administrative Agent and the Administrative Agent shall not have received, within five Business Days of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such successor rate.

"**LIBOR Successor Rate**" has the meaning assigned to such term in **Section 2.14(b)**.

"**LIBOR Successor Rate Conforming Changes**" means, with respect to any proposed LIBOR Successor Rate, any conforming changes to the definition of Alternate Base Rate, Interest Period, timing and frequency of determining rates and making payments of interest and other technical, administrative or operational matters (including, for the avoidance of doubt, the definition of Business Day, timing of borrowing requests or prepayment, conversion or continuation notices and length of lookback periods) as may be reasonably agreed by the Borrower and the Administrative Agent, to reflect the adoption and implementation of such LIBOR Successor Rate and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent reasonably determines that adoption of any portion of such market practice is not administratively feasible or that no market practice for the administration of such LIBOR Successor Rate exists, in such other manner of administration as the Administrative Agent (in consultation with the Borrower) reasonably determines is reasonably necessary in connection with the administration of this Agreement and any other Loan Document).

"**Lien**" means, with respect to any asset, (a) any mortgage, deed of trust, lien, hypothecation, pledge, encumbrance, charge or security interest in or on such asset and (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement or extended title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset; **provided**, that in no event shall a Non-Financing Lease Obligation or an agreement to sell, or the license or sublicense of Intellectual Property in the ordinary course of business, be deemed to constitute a Lien.

"**Limited Condition Transaction**" means (a) any Incurrence or issuance of, or prepayment, repayment, redemption, repurchase, defeasance, acquisition, satisfaction and discharge, Refinancing or similar payment of, Indebtedness, any Lien or any Equity Interests, (b) any Acquisition (or proposed Acquisition) by the Borrower or any Restricted Subsidiary permitted by this Agreement, (c) the making of any Disposition, (d) the making of any Investment (including any Acquisition or any designation or conversion of any subsidiary as (or to) "unrestricted" or "restricted") or Restricted Payment and (e) any other transaction or plan undertaken or proposed to be undertaken in connection with any of the preceding clauses (a) through (e), including any transaction that, if consummated, would constitute a transaction of the type described in any of the preceding clauses (a) through (e).

"**Loan Document Obligations**" means (a) the due and punctual payment by the Borrower of (i) the principal of and interest at the applicable rate or rates provided in this Agreement (including interest accruing during the pendency of any proceeding under any applicable Debtor Relief Law, regardless of whether allowed or allowable in such proceeding) on the Loans, when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise, (ii) each payment required to be made by the Borrower under this Agreement in respect of any Letter of Credit, when and as due, including payments in respect of reimbursement of disbursements, interest thereon (including interest accruing during the pendency of any proceeding under any applicable Debtor Relief Law, regardless of whether allowed or allowable in such proceeding) and obligations to provide cash collateral, and (iii) all other monetary obligations of the Borrower under or pursuant to this Agreement and each of the other Loan Documents, including obligations to pay fees, expense reimbursement obligations and indemnification obligations, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any proceeding under any applicable Debtor Relief Law, regardless of whether allowed or allowable in such proceeding), (b) the due and punctual payment and performance of all other obligations of the Borrower under or pursuant to each of the Loan Documents and (c) the due and punctual payment and performance of all the obligations of each other Loan Party under or pursuant to the Loan Guaranty, the Security Agreement and each of the other Loan Documents (including monetary obligations incurred during the pendency of any proceeding under any applicable Debtor Relief Law, regardless of whether allowed or allowable in such proceeding).

"**Loan Documents**" means this Agreement, the Security Documents, any Customary Intercreditor Agreement, any agreement designating an additional Issuing Bank as contemplated by **Section 2.05(k)** and, except for purposes of **Section 9.02**, any promissory notes delivered pursuant to **Section 2.09(e)**.

"**Loan Guaranty**" means the Loan Guaranty dated as of the Effective Date, among the Loan Parties party thereto and the Administrative Agent, substantially in the form of **Exhibit B-1**.

"**Loan Parties**" means the Borrower and the Subsidiary Loan Parties.

"**Loans**" means the loans made by the Lenders to the Borrower pursuant to this Agreement.

"**Local Management Plan**" means an equity plan or program for the sale or issuance of Equity Interests of a Restricted Subsidiary in an amount not to exceed 5 % of the outstanding common Equity Interests of such Restricted Subsidiary to local management or a plan or program in respect of Restricted Subsidiaries of the Borrower whose principal business is conducted outside of the United States.

"**Majority in Interest**", when used in reference to Lenders of any Class, means, at any time, Lenders having, as applicable, Revolving Exposures, Term Loans and unused Commitments of such Class representing more than 50% of the aggregate Revolving Exposures, Term Loans and unused Commitments of such Class; **provided** that to the extent set forth in **Section 9.02**, whenever there are one or more Defaulting Lenders, the total outstanding Term Loans and Revolving Exposures of, and the unused Commitments of, each Defaulting Lender shall in each case be excluded for purposes of making a determination of the Required Lenders.

"**Management Investors**" means the officers, directors and employees of the Borrower and the Restricted Subsidiaries who become investors in the Borrower.

"**Margin Stock**" has the meaning assigned to such term in Regulation U of the Federal Reserve.

"**Master Agreement**" has the meaning assigned to such term in the definition of the term "Swap Agreement".

"**Material Adverse Effect**" means any event, development or circumstance or condition that would materially adversely affect (a) the business, operations or the financial condition of the Borrower and its Restricted Subsidiaries, taken as a whole; (b) the ability of the Loan Parties (taken as a whole) to fully and timely perform any of their payment obligations under the Loan Documents; or (c) the rights and remedies available to the Lenders or the Administrative Agent under any Loan Document.

"**Material Indebtedness**" means Indebtedness (other than the Loan Document Obligations) of any one or more of the Borrower and the Restricted Subsidiaries in an aggregate principal amount exceeding $100,000,000. For purposes of determining Material Indebtedness, the "principal amount" of the obligations in respect of any Swap Agreement at any time shall be its Swap Termination Value.

"**Material Junior Debt**" means Junior Debt of any Loan Party in an aggregate principal amount exceeding the greater of $125,000,000 and 35% of Consolidated EBITDA of the Borrower and its Restricted Subsidiaries for the Test Period most recently ended on or prior to such date of determination (measured as of such date) based upon the Internal Financial Statements most recently available on or prior to such date.

"**Maximum Rate**" has the meaning assigned to such term in **Section 9.17**.

"**MFN Exception**" has the meaning assigned to such term in **Section 2.20(c)**.

"**MFN Protection**" has the meaning assigned to such term in **Section 2.20(c)**.

"**Minimum Extension Condition**" has the meaning assigned to such term in **Section 2.21(b)**.

"**Minority Investment**" means any Person (other than a Subsidiary) in which the Borrower or any Restricted Subsidiary owns capital stock.

"**MNPI**" means any material information with respect to the Borrower or any of its Subsidiaries or any of their respective securities for purposes of United States federal securities laws that is not publicly available and has not been made available to investors in the Borrower's public securities.

"**Moody's**" means Moody's Investors Service, Inc. and any successor to its rating agency business.

"**Mortgage**" means a mortgage, deed of trust, security deed, hypothec, charge or other security document granting a Lien on any Mortgaged Property to secure the Secured Obligations (**provided**, that in the event any Mortgaged Property is located in a jurisdiction which imposes mortgage, documentary, intangible taxes or other similar mortgage taxes or recording fees, such Mortgage shall only secure an amount not to exceed the Fair Market Value of the Mortgaged Property as reasonably determined by Borrower). Each Mortgage shall be entered into by the owner of a Mortgaged Property in favor of the Administrative Agent and shall be in form and substance reasonably satisfactory to the Administrative Agent and the Borrower with such provisions as may be required by local laws.

"**Mortgaged Property**" means each parcel of Real Property and the improvements thereon owned in fee by a Loan Party (unless such parcel is an Excluded Asset) and with respect to which a Mortgage is granted.

"**Multiemployer Plan**" means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

"**Necessary Cure Amount**" has the meaning assigned to such term in **Section 7.02(b)**.

"**Net Cash Proceeds**" means with respect to any Prepayment Event, Incurrence of Indebtedness, any issuance of Equity Interests or any capital contribution or any Disposition of any Investment (including any Designated Non-Cash Consideration):

(a) the gross cash proceeds (including payments from time to time in respect of installment or earn-out obligations, if applicable, but only as and when received and, with respect to any Casualty Prepayment Event, any insurance proceeds, eminent domain awards or condemnation awards in respect of such Casualty Prepayment Event) received by or on behalf of the Borrower or any of the Restricted Subsidiaries in respect of such Prepayment Event, Incurrence of Indebtedness, issuance of Equity Interests, receipt of a capital contribution or Disposition of any Investment, less

(b) the sum of:

(i) in the case of any Prepayment Event or such Disposition, the amount, if any, of all taxes paid or estimated to be payable by any Parent Entity, the Borrower or any of the Restricted Subsidiaries in connection with such Prepayment Event or such Disposition (including withholding taxes imposed on the repatriation of any such Net Cash Proceeds),

(ii) in the case of any Prepayment Event or such Disposition, the amount of any reasonable reserve established in accordance with GAAP against any liabilities (other than any amounts deducted pursuant to **clause (i)** above) (x) associated with the assets that are the subject of such Prepayment Event or such Disposition and (y) retained by the Borrower or any of the Restricted Subsidiaries, including any pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction; **provided** that the amount of any subsequent reduction of such reserve (other than in connection with a payment in respect of any such liability) shall be deemed to be Net Cash Proceeds of such Prepayment Event or such Disposition occurring on the date of such reduction,

(iii) in the case of any Prepayment Event or such Disposition (other than a Receivables Prepayment Event), the amount of any principal amount, premium or penalty, if any, interest or other amounts on any Indebtedness secured by a Lien on the assets that are the subject of such Prepayment Event or such Disposition to the extent that the instrument creating or evidencing such Indebtedness requires that such Indebtedness be repaid upon consummation of such Prepayment Event or such Disposition and such Indebtedness is actually so repaid (other than Indebtedness outstanding under the Loan Documents or the Senior Secured Notes Documents or otherwise subject to a Customary Intercreditor Agreement and any costs associated with the unwinding of any Swap Obligations in connection with such transaction),

(iv) in the case of any Asset Sale Prepayment Event, the amount of any proceeds of such Asset Sale Prepayment Event that the Borrower or the applicable Restricted Subsidiary has reinvested (or intends to reinvest), or has entered into an Acceptable Reinvestment Commitment to reinvest, within the Reinvestment Period, in the business of the Borrower or any of the Restricted Subsidiaries (subject to **Section 5.02**); **provided** that:

(A) the Borrower or the applicable Restricted Subsidiary shall comply with the Collateral and Guarantee Requirement with respect to such reinvestment if applicable,

(B) any portion of such proceeds that has not been so reinvested within the Reinvestment Period (or, if made subject to an Acceptable Reinvestment Commitment within the Reinvestment Period, within 180 days after the end of the Reinvestment Period) shall (x) be deemed to be Net Cash Proceeds of an Asset Sale Prepayment Event occurring on (1) the last day of the Reinvestment Period or (2) in the case of any such proceeds made subject to an Acceptable Reinvestment Commitment within the Reinvestment Period, the 180th day after the end of the Reinvestment Period and (y) be applied to the prepayment of Term Loans in accordance with **Section 2.11(b)** or to the prepayment, repurchase, defeasance, acquisition or redemption of any secured Permitted Additional Debt or secured Credit Agreement Refinancing Indebtedness pursuant to the corresponding provisions of the governing documentation thereof, in any such case to the extent permitted under **Section 2.11(b)**, and

(C) any proceeds subject to an Acceptable Reinvestment Commitment that is (I) later canceled or terminated for any reason before such proceeds are applied in accordance therewith or (II) not consummated (i.e., the reinvestment contemplated by such Acceptable Reinvestment Commitment is not made) shall be applied to the prepayment of Term Loans in accordance with **Section 2.11(b)** or to the prepayment, repurchase, defeasance, acquisition or redemption of any secured Permitted Additional Debt or secured Credit Agreement Refinancing Indebtedness pursuant to the corresponding provisions of the governing documentation thereof, in any such case to the extent permitted under **Section 2.11(b)**, unless the Borrower or the applicable Restricted Subsidiary enters into another Acceptable Reinvestment Commitment with respect to such proceeds prior to the end of the Reinvestment Period,

(v) in the case of any Casualty Prepayment Event, the amount of any proceeds of such Casualty Prepayment Event that the Borrower or the applicable Restricted Subsidiary has reinvested (or intends to reinvest), or has entered into an Acceptable Reinvestment Commitment to reinvest, within the Reinvestment Period, in the business of the Borrower or any of the Restricted Subsidiaries (subject to **Section 5.02**), including for the repair, restoration or replacement of the asset or assets subject to such Casualty Prepayment Event; **provided** that:

(A) the Borrower or the applicable Restricted Subsidiary shall comply with the Collateral and Guarantee Requirement with respect to such reinvestment if applicable,

(B) any portion of such proceeds that has not been so reinvested within the Reinvestment Period (or, if made subject to an Acceptable Reinvestment Commitment within the Reinvestment Period, within 180 days after the end of the Reinvestment Period) shall (x) be deemed to be Net Cash Proceeds of a Casualty Prepayment Event occurring on (1) the last day of the Reinvestment Period or (2) in the case of any such proceeds made subject to an Acceptable Reinvestment Commitment within the Reinvestment Period, the 180th day after the end of the Reinvestment Period and (y) be applied to the prepayment of Term Loans in accordance with **Section 5.2(a)(i)** or to the prepayment, repurchase, defeasance, acquisition or redemption of any secured Permitted Additional Debt or secured Credit Agreement Refinancing Indebtedness pursuant to the corresponding provisions of the governing documentation thereof, in any such case to the extent permitted under **Section 2.11(b)**, and

(C) any proceeds subject to an Acceptable Reinvestment Commitment that is (I) later canceled or terminated for any reason before such proceeds are applied in accordance therewith or (II) not consummated (i.e., the reinvestment, repair, restoration or replacement contemplated by such Acceptable Reinvestment Commitment is not made) shall be applied to the prepayment of Term Loans in accordance with **Section 2.11(b)** or to the prepayment,

repurchase, defeasance, acquisition or redemption of any secured Permitted Additional Debt or secured Credit Agreement Refinancing Indebtedness pursuant to the corresponding provisions of the governing documentation thereof, in each case to the extent permitted under **Section 2.11(b)**, unless the Borrower or the applicable Restricted Subsidiary enters into another Acceptable Reinvestment Commitment with respect to such proceeds prior to the end of the Reinvestment Period,

(vi) in the case of any Asset Sale Prepayment Event or Casualty Prepayment Event by any non-Wholly Owned Restricted Subsidiary, the pro rata portion of the net cash proceeds thereof (calculated without regard to this **clause (vi)**) attributable to minority interests and not available for distribution to or for the account of the Borrower or a Wholly Owned Restricted Subsidiary as a result thereof,

(vii) in the case of any Prepayment Event, Incurrence of Indebtedness, Disposition, issuance of Equity Interests or receipt of a capital contribution, the reasonable and customary fees, commissions, expenses (including attorney's fees, investment banking fees, survey costs, title insurance premiums and search and recording charges, transfer taxes, deed or mortgage recording taxes and other customary expenses and brokerage, consultant and other customary fees or commissions), issuance costs, discounts and other costs and expenses (and, in the case of the Incurrence of any Indebtedness the proceeds of which are required to be used to prepay any Class of Loans and/or reduce any Class of Commitments under this Agreement, accrued interest and premium, if any, on such Loans and any other amounts (other than principal) required to be paid in respect of such Loans and/or Commitments in connection with any such prepayment and/or reduction), and payments made in order to obtain a necessary consent required by Requirements of Law, in each case only to the extent not already deducted in arriving at the amount referred to in **clause (a)** above, and

(viii) in the case of any Asset Sale Prepayment Event or Disposition, any amounts funded into escrow established pursuant to the documents evidencing any such Asset Sale Prepayment Event or Disposition to secure any indemnification obligations or adjustments to the purchase price associated with any such Asset Sale Prepayment Event or Disposition until such amounts are released to the Borrower or a Restricted Subsidiary;

provided that, in the case of any Asset Sale Prepayment Event or Casualty Prepayment Event, (x) no net cash proceeds calculated in accordance with the foregoing realized in a single transaction or series of related transactions shall constitute Net Cash Proceeds unless such net cash proceeds shall exceed **$20,000,000** and (y) no such net cash proceeds in any calendar year shall constitute Net Cash Proceeds with respect to any applicable Prepayment Event until the aggregate amount of all such net cash proceeds exceed **$50,000,000** (and then only with respect to the amount in excess of **$50,000,000**).

For purposes of calculating the amount of Net Cash Proceeds, fees, commissions and other costs and expenses payable to the Borrower or any of its Subsidiaries or Parent Entities shall be disregarded.

"**New Project**" means (a) each facility or operating location which is either a new facility, location or office or an expansion, relocation, remodeling or substantial modernization of an existing facility, location or office owned by the Borrower or its Restricted Subsidiaries which in fact commences operations and (b) each creation (in one or a series of related transactions) of a business unit to the extent such business unit commences operations or each expansion (in one or a series of related transactions) of business into a new market.

"**Non-Consenting Lender**" has the meaning assigned to such term in **Section 9.02(c)**.

"**Non-Debt Fund Affiliate**" means any Affiliate of the Borrower (other than the Borrower or any Restricted Subsidiary) that is not a Debt Fund Affiliate.

"**Non-Defaulting Lender**" means, at any time, a Lender that is not a Defaulting Lender.

"**Non-Financing Lease Obligations**" means a lease obligation that is not required to be accounted for as a financing or capital lease on both the balance sheet and the income statement for financial reporting purposes in accordance with GAAP as in effect on the Effective Date. For avoidance of doubt, (i) a straight-line or operating lease shall be considered a Non-Financing Lease Obligation and (ii) if the Borrower or its Restricted Subsidiaries enter into a Sale Leaseback with a Governmental Authority in connection with an Industrial Revenue Bond, the associated lease shall be deemed to be a Non-Financing Lease Obligation notwithstanding anything to the contrary herein.

"**Non-Guarantor**" means any Restricted Subsidiary that is not a Loan Party or that does not become a Loan Party in accordance with **Section 5.11** (after giving effect to any applicable grace periods or extensions of time periods included therein to allow such Restricted Subsidiary to become a Loan Party in accordance with the terms thereof).

"**Non-Guarantor Casualty Prepayment Event**" has the meaning set forth in **Section 2.11(h)**.

"**Non-Guarantor Disposition**" has the meaning set forth in **Section 2.11(h)**.

"**Not Otherwise Applied**" means, with reference to any Net Cash Proceeds of any cash capital contribution, net proceeds of any non-cash capital contribution or the Net Cash Proceeds from the sale or issuance of any Qualified Equity Interests that is proposed to be applied to a particular use or transaction, that such amount was not previously applied or is not simultaneously being applied, to any other use, payment or transactions other than such particular use, payment or transaction.

"**Notice of Borrowing**" means a notice of borrowing substantially in the form of **Exhibit R** hereto or such other form as may be reasonably acceptable to the Administrative Agent, including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent, appropriately completed and signed by a Responsible Officer of the Borrower.

"**Notice of Prepayment**" means a notice of prepayment substantially in the form of **Exhibit S** hereto or such other form as may be reasonably acceptable to the Administrative Agent, including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent, appropriately completed and signed by a Responsible Officer of the Borrower.

"**NYFRB**" means the Federal Reserve Bank of New York.

"**OFAC**" has meaning set forth in the definition of "Embargoed Person."

"**Offered Amount**" has the meaning assigned to such term in **Section 2.11(a)(ii)(D)**.

"**Offered Discount**" has the meaning assigned to such term in **Section 2.11(a)(ii)(D)**.

"**Open Market Purchase**" has the meaning assigned to such term in **Section 9.04(g)**.

"**Organizational Documents**" means, with respect to any Person, the charter, articles or certificate of organization or incorporation and by-laws or other organizational or governing documents of such Person (including any limited liability company or operating agreement).

"**Other Taxes**" means all present or future recording, stamp, documentary, or similar excise or other Taxes, charges or levies arising from any payment made under any Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, any Loan Document, except any such Taxes that are imposed with respect to an assignment of a Loan or Commitment ("**Assignment Taxes**"), but only to the extent such Assignment Taxes are not imposed in respect of an assignment made at the request of the Borrower and are imposed as a result of a present or former connection between the assignor or assignee and the jurisdiction imposing such Tax (other than any connections arising solely from such assignor or assignee having executed, delivered, or become a party to, performed its obligations or received payments under, received or perfected a security interest under, sold or assigned an interest in, engaged in any other transaction pursuant to, and/or enforced, any Loan Documents).

"**Parent Company**" means, with respect to a Lender, the bank holding company (as defined in Regulation Y of the Federal Reserve), if any, of such Lender, and/or any Person owning, beneficially or of record, directly or indirectly, a majority of the equity interests of such Lender.

"**Parent Entity**" means any Person that is a direct or indirect parent company (which may be organized as, among other things, a partnership) of the Borrower.

"**Participant**" has the meaning assigned to such term in **Section 9.04(c)(i)**.

"**Participant Register**" has the meaning assigned to such term in **Section 9.04(c)(ii)**.

"**Participating Lender**" has the meaning assigned to such term in **Section 2.11(a)(ii)(C)**.

"**Participating Member State**" means each state as described in any EMU Legislation.

"**Payment Party**" has the meaning assigned to such term in **Section 8.15**.

"**PBGC**" means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

"**Perfection Certificate**" means a certificate substantially in the form of **Exhibit C**.

"**Permitted Additional Debt**" means

(i) secured or unsecured bonds, notes or debentures (which bonds, notes or debentures, if secured, may be secured either by Liens on the Collateral ranking equal in priority to Liens on the Collateral securing the Secured Obligations (but without regard to the control of remedies) or by Liens on the Collateral ranking junior in priority to the Liens on the Collateral securing the Secured Obligations) or

(ii) secured or unsecured loans (or commitments to provide loans or other extensions of credit) (which loans or commitments, if secured, may be secured by Liens on the Collateral ranking equal in priority to Liens on the Collateral securing the Secured Obligations (but without regard to the control of remedies) or by Liens on the Collateral ranking junior in priority to the Liens on the Collateral securing the Secured Obligations), in each case Incurred by the Borrower or a Subsidiary Loan Party; **provided** that

(a) the terms of such Indebtedness or commitments do not provide for a maturity date that is earlier than the Latest Maturity Date or a Weighted Average Life to Maturity that is shorter than the Weighted Average Life to Maturity of the Initial Term Loans or mandatory repayment, mandatory redemption, mandatory commitment reduction, mandatory offer to purchase or sinking fund obligation prior to the Latest Maturity Date, other than customary prepayments, commitment reductions, repurchases, redemptions, defeasances, acquisitions or satisfactions and discharges, or offers to prepay, reduce, redeem, repurchase, defease, acquire or satisfy and discharge upon, a change of control, asset sale event or casualty, eminent domain or condemnation event, or on account of the accumulation of excess cash flow (in the case of loans or commitments), AHYDO Catch-Up Payments and customary acceleration rights upon an event of default; **provided** that the foregoing requirements of this **clause (a)** shall not apply to the extent such Indebtedness or commitments either are subject to Customary Escrow Provisions (but only for so long as such Indebtedness is so subject) or that constitute a customary bridge facility, so long as the long-term Indebtedness into which any such customary bridge facility is to be converted or exchanged satisfies the requirements of this **clause (a)** and such conversion or exchange is subject only to conditions customary for similar conversions or exchanges, **provided**, **further**, that any such Indebtedness that is a First Lien Obligation may participate on a pro rata basis or less than pro rata basis (but not, except in the case of any Refinancing of such Indebtedness, on a greater than a pro rata basis) in any mandatory prepayments with the Term Loans hereunder,

(b) except for any of the following that are applicable only to periods following the Latest Maturity Date, the covenants, events of default, Subsidiary guarantees and other terms for such Indebtedness or commitments (excluding, for the avoidance of doubt, interest rates (including through fixed interest rates or payment-in-kind interest), interest rate margins, rate floors, fees, AHYDO Catch-Up Payments, funding discounts, original issue discounts, closing payments, maturity, currency types and denominations, and redemption or prepayment terms and premiums), when taken as a whole, are determined in good faith by the Borrower to enter, (A) consistent with market terms and conditions taken as a whole at the time of Incurrence or effectiveness or (B) not be materially more restrictive on the Borrower and the Restricted Subsidiaries than the terms of this Agreement, when taken as a whole (other than covenants, events of default, subsidiary guarantors and other terms that are applicable after the Latest Maturity Date or added for the benefit of each Facility, including, if the documentation governing such Indebtedness or commitments contains any Previously Absent Financial Maintenance Covenant, the Administrative Agent shall have been given prompt written notice thereof and this Agreement shall have been amended to include such Previously Absent Financial Maintenance Covenant for the benefit of each Facility (**provided**, **however**, that, if (x) the documentation governing the Permitted Additional Debt that includes a Previously Absent Financial Maintenance Covenant consists of a revolving credit facility (whether or not the documentation therefor includes any other facilities) and (y) such Previously Absent Financial Maintenance Covenant is a "springing" financial maintenance covenant for the benefit of such revolving credit facility or a covenant only applicable to, or for the benefit of, a revolving credit facility, then this Agreement shall be amended to include such Previously Absent Financial Maintenance Covenant only for the benefit of each revolving credit facility hereunder (and not for the benefit of any term loan facility hereunder) and such Indebtedness or commitments shall not be deemed "more restrictive" solely as a result of such Previously Absent Financial Maintenance Covenant benefiting only such revolving credit facilities); **provided** that a certificate of a Responsible Officer of the Borrower delivered to the Administrative Agent at least five Business Days prior to the Incurrence of such Indebtedness or the providing of such commitments, together with a reasonably detailed description of the material terms and conditions of such Indebtedness or commitments or drafts of the documentation relating thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the foregoing requirement shall be conclusive evidence that such terms and conditions satisfy the foregoing requirement unless the Administrative Agent notifies the Borrower within such five Business Day period that it disagrees with such determination (including a reasonable description of the basis upon which it disagrees)),

(c) if such Indebtedness is senior subordinated or subordinated Indebtedness, the terms of such Indebtedness provide for customary "high yield" subordination of such Indebtedness to the Secured Obligations,

(d) any Permitted Additional Debt may not be guaranteed by any subsidiaries of the Borrower that do not guarantee the Secured Obligations,

(e) any secured Permitted Additional Debt Incurred may not be secured by any assets that do not secure the Secured Obligations and shall be subject to an applicable Customary Intercreditor Agreement and

(f) any Permitted Additional Debt in the form of term loans secured by Liens on the Collateral having a priority ranking equal to the priority of the Liens on the Collateral securing the Secured Obligations (but without regard to the control of remedies) shall be subject to the MFN Protection set forth in **Section 2.20(c)** (but subject to the MFN Exception to such MFN Protection) as if such Permitted Additional Debt were an Incremental Term Loan.

"**Permitted Additional Debt Documents**" means any document or instrument (including any guarantee, security agreement or mortgage and which may include any or all of the Loan Documents) issued or executed and delivered with respect to any Permitted Additional Debt by any Loan Party.

"**Permitted Additional Debt Obligations**" means, if any secured Permitted Additional Debt has been Incurred by or provided to any Loan Party and is outstanding, the collective reference to (a) the due and punctual payment of (i) the principal of, and premium on, if any, and interest at the applicable rate provided in the applicable Permitted Additional Debt Documents (including interest accruing during the pendency of any proceeding under any applicable Debtor Relief Law, regardless of whether allowed or allowable in such proceeding) on any such Permitted Additional Debt, when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment, redemption or otherwise and (ii) all other monetary obligations, including fees, costs, expenses and indemnities, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any proceeding under any applicable Debtor Relief Law, regardless of whether allowed or allowable in such proceeding), of the Borrower or any other Loan Party to any of the Permitted Additional Debt Secured Parties under the applicable Permitted Additional Debt Documents and (b) the due and punctual performance of all covenants, agreements, obligations and liabilities of the Borrower or any Loan Party under or pursuant to applicable Permitted Additional Debt Documents.

"**Permitted Additional Debt Secured Parties**" means the holders from time to time of the secured Permitted Additional Debt Obligations (and any representative on their behalf).

"**Permitted Business Acquisition**" means any Acquisition (including any Franchise Acquisition) by the Borrower or any of the Restricted Subsidiaries, so long as (a) such Acquisition and all transactions related thereto shall be consummated in all material respects in accordance with all Requirements of Law, (b) such Acquisition involves the acquisition of such Person, or the assets of such Person, as the case may be, whose business constitutes a business permitted by **Section 5.15**, (c) if such Acquisition involves the acquisition of Equity Interests of a Person that upon such Acquisition would become a Subsidiary, such Acquisition shall result in the issuer of such Equity Interests becoming a Restricted Subsidiary and, to the extent required by the Collateral and Guarantee Requirement, a Subsidiary Loan Party, (d) to the extent set forth in the definition of the term "Collateral and Guarantee

Requirement" and within the time frames set forth in **Section 5.10**, such Acquisition shall result in the Administrative Agent, for the benefit of the Secured Parties, being granted a security interest in any Equity Interests or any assets so acquired and (e) subject to **Section 1.10**, after giving pro forma effect to such Acquisition, no Event of Default under either **Section 7.01(a)**, **7.01(b)**, **7.01(h)** or **7.01(i)** shall have occurred and be continuing.

"**Permitted Business Acquisition Consideration**" means in connection with any Permitted Business Acquisition, the aggregate amount (as valued at the Fair Market Value of such Permitted Business Acquisition at the time such Permitted Business Acquisition is made) of, without duplication: (a) the purchase consideration paid or payable in cash for such Permitted Business Acquisition, whether payable at or prior to the consummation of such Permitted Business Acquisition or deferred for payment at any future time, whether or not any such future payment is subject to the occurrence of any contingency, and including any and all payments representing the purchase price, "earn-outs" and other agreements to make any payment the amount of which is, or the terms of payment of which are, in any respect subject to or contingent upon the revenues, income, cash flow or profits (or the like) of any Person or business and (b) the aggregate amount of Indebtedness assumed in connection with such Permitted Business Acquisition; **provided**, in each case, that any such future payment that is subject to a contingency shall be considered Permitted Business Acquisition Consideration only to the extent of the reserve, if any, required under GAAP (as determined at the time of the consummation of such Permitted Business Acquisition) to be established in respect thereof by the Borrower or its Restricted Subsidiaries.

"**Permitted Cure Securities**" means Qualified Equity Interests of the Borrower in the form of common equity or in such other form as is reasonably acceptable to the Administrative Agent, in each case, issued pursuant to **Section 7.02**.

"**Permitted Equal Priority Refinancing Debt**" mean any secured Indebtedness Incurred by the Borrower and/or any Subsidiary Loan Party in the form of one or more series of senior secured notes, bonds, debentures or loans; **provided** that

(a) such Indebtedness is secured by Liens on all or a portion of the Collateral on an equal priority basis with the Liens on the Collateral securing the Secured Obligations (but without regard to the control of remedies) and is not secured by any property or assets of the Borrower or any Subsidiary other than the Collateral,

(b) such Indebtedness satisfies the applicable requirements set forth in the provisos to the definition of "Credit Agreement Refinancing Indebtedness",

(c) such Indebtedness is not at any time guaranteed by any Subsidiaries of the Borrower other than Subsidiaries that are Subsidiary Loan Parties and

(d) the holders of such Indebtedness (or their representative) and the Administrative Agent shall become parties to a Customary Intercreditor Agreement.

"**Permitted Holder**" means (i) the Controlling Shareholder, (ii) the Management Investors and their Immediate Family Members (including any Management Investors (or their Immediate Family Members) holding Equity Interests through an Equityholding Vehicle), (iii) Oprah Winfrey and her Affiliates and Immediate Family Members, (iv) the heirs, executors and administrators of the estate of any such individual referred to in the foregoing **clause (ii)** and **clause (iii)** hereof, (v) any trust for the benefit of any such individual referred to in the foregoing **clause (ii)** and **clause (iii)**, (vi) upon the death of any such individual referred to in the foregoing **clause (ii)** and **clause (iii)**, any Person who was an

Affiliate of such person that upon his or her death directly or indirectly owns Equity Interests in any Parent Entity of the Borrower, the Borrower or any Subsidiary, (vii) any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act) of which any of the foregoing Permitted Holders are members and any member of such group; **provided**, that, in the case of such group and any member of such group and without giving effect to the existence of such group or any other group, such Controlling Shareholder or Management Investors (including such Equityholding Vehicle), collectively, own, directly or indirectly, more than 50% of the total voting power of the Voting Stock of the Borrower held by such group and (viii) any Permitted Plan.

"**Permitted Investment**" has the meaning assigned to such term in **Section 6.04**.

"**Permitted Junior Priority Refinancing Debt**" means secured Indebtedness Incurred by the Borrower and/or any Subsidiary Loan Party in the form of one or more series of junior lien secured notes, bonds or debentures or junior lien secured loans; **provided** that

(a) such Indebtedness is secured by Liens on all or a portion of the Collateral on a junior priority basis to the Liens on the Collateral securing the Secured Obligations and any other First Lien Obligations and is not secured by any property or assets of the Borrower or any Subsidiary other than the Collateral,

(b) such Indebtedness satisfies the applicable requirements set forth in the provisos in the definition of "Credit Agreement Refinancing Indebtedness" (**provided** that such Indebtedness may be secured by a Lien on the Collateral that ranks junior in priority to the Liens on the Collateral securing the Secured Obligations and any other First Lien Obligations, notwithstanding any provision to the contrary contained in the definition of "Credit Agreement Refinancing Indebtedness"),

(c) the holders of such Indebtedness (or their representative) and the Administrative Agent shall become parties to a Customary Intercreditor Agreement, and

(d) such Indebtedness is not at any time guaranteed by any Subsidiaries of the Borrower other than Subsidiaries that are Subsidiary Loan Parties.

"**Permitted Plan**" means any employee benefits plan of the Borrower or any of its Affiliates and any Person acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan.

"**Permitted Refinancing Indebtedness**" means, with respect to any Indebtedness (the "**Refinanced Indebtedness**"), any Indebtedness Incurred in exchange for or as a replacement of (including by entering into alternative financing arrangements in respect of such exchange or replacement (in whole or in part), by adding or replacing lenders, creditors, agents, borrowers and/or guarantors, or, after the original instrument giving rise to such Indebtedness has been terminated, by entering into any credit agreement, loan agreement, note purchase agreement, indenture or other agreement), or the net proceeds of which are to be used for the purpose of modifying, extending, refinancing, renewing, replacing, redeeming, repurchasing, defeasing, acquiring, amending, supplementing, restructuring, repaying, prepaying, retiring, extinguishing or refunding (collectively to "**Refinance**" or a "**Refinancing**" or "**Refinanced**"), such Refinanced Indebtedness (or previous refinancing thereof constituting Permitted Refinancing Indebtedness); **provided** that

(A) the principal amount (or, if higher, accreted value, if applicable) of any such Permitted Refinancing Indebtedness does not exceed the principal amount (or, if higher, accreted value, if applicable) of the Refinanced Indebtedness outstanding immediately prior to the consummation of such Refinancing except by an amount equal to the unpaid accrued interest, dividends and premium (including tender premiums), if any, thereon plus defeasance costs, underwriting discounts and other amounts paid and fees and expenses (including original issue discounts, closing payments, upfront fees and similar fees) incurred in connection with such Refinancing plus an amount equal to any existing commitment unutilized and letters of credit undrawn thereunder, plus additional amounts permitted to be incurred under **Section 6.01**,

(B) if the Indebtedness being Refinanced is Indebtedness permitted by **Section 6.01(a)**, **(b)**, **(o)** or **(dd)**, such Permitted Refinancing Indebtedness shall not be Incurred by, or guaranteed by, any Subsidiary of the Borrower that is not a Loan Party (it being understood that any Loan Party may be added as an additional direct or contingent obligor in respect of such Permitted Refinancing Indebtedness),

(C) such Permitted Refinancing Indebtedness shall have a final maturity date equal to or later than the earlier of (x) the final maturity date of the Refinanced Indebtedness and (y) the Latest Maturity Date, and shall have a Weighted Average Life to Maturity equal to or greater than the lesser of (1) the Weighted Average Life to Maturity of the Refinanced Indebtedness and (2) the greatest Weighted Average Life to Maturity of any Class of Term Loans the outstanding; **provided** that the foregoing requirements of this **clause (C)** shall not apply to the extent such Indebtedness either is subject to Customary Escrow Provisions (but only for so long as such Indebtedness is so subject) or constitutes a customary bridge facility, so long as the long-term Indebtedness into which any such customary bridge facility is to be converted or exchanged satisfies the requirements of this **clause (C)** and such conversion or exchange is subject only to conditions customary for similar conversions or exchanges,

(D) to the extent such Refinanced Indebtedness is subordinated in right of payment to the Secured Obligations, such Permitted Refinancing Indebtedness is subordinated in right of payment to the Secured Obligations on terms in all material respects at least as favorable, taken as a whole, to the Lenders (as determined in good faith by the Borrower) as those contained in the documentation governing the Refinanced Indebtedness (except, for the avoidance of doubt, to the extent permitted by dollar for dollar usage of any other basket set forth in **Section 6.01**),

(E) (1) if such Refinanced Indebtedness is secured by any Collateral on an equal priority basis to the Secured Obligations, the Permitted Refinancing Indebtedness shall be secured on an equal or junior priority basis by the Collateral to the Secured Obligations or shall be unsecured, (2) if such Refinanced Indebtedness is secured by any Collateral on a junior priority basis to the Secured Obligations, the Permitted Refinancing Indebtedness shall be secured on a junior priority basis by the Collateral to the Secured Obligations or shall be unsecured and (3) if such Refinanced Indebtedness is secured by assets not constituting Collateral or is unsecured, the Permitted Refinancing Indebtedness shall be secured by assets not constituting Collateral or be unsecured (except, for the avoidance of doubt, in the case of each of clauses (1), (2) and (3), to the extent of any dollar for dollar usage of any other basket set forth in **Section 6.01** and lien basket set forth in **Section 6.02**),

(F) [reserved],

(G) if such Refinanced Indebtedness is subject to a Customary Intercreditor Agreement and is secured by any Collateral, a Senior Representative validly acting on behalf of holders of such Permitted Refinancing Indebtedness shall become party to a Customary Intercreditor Agreement and

(H) except for any of the following that are only applicable to periods after the Latest Maturity Date, the terms and conditions contained in the documentation governing such Permitted Refinancing Indebtedness, taken as a whole, are determined by the Borrower to either (1) be consistent with market terms and conditions and conditions at the time of incurrence, issuance or effectiveness or (2) not be materially more restrictive on the obligor or obligors of such Indebtedness than the terms and conditions, taken as a whole, contained in the documentation governing such Refinanced Indebtedness being Refinanced (including, if applicable, as to collateral priority and subordination, but excluding as to interest rates (including through fixed exchange rates or payment-in-kind interest), interest rate margins, AHYDO Catch-Up Payments, rate floors, fees, funding discounts, original issue discounts, closing payments, maturity, currency types and denominations, and redemption or prepayment terms and premiums) (**provided** that, such terms and conditions shall not be deemed to be "more restrictive" solely as a result of the inclusion in the documentation governing such Permitted Refinancing Indebtedness of a Previously Absent Financial Maintenance Covenant so long as the Administrative Agent shall have been given prompt written notice thereof and this Agreement is amended to include such Previously Absent Financial Maintenance Covenant for the benefit of each Facility (**provided**, **however**, that if (x) the documentation governing the Permitted Refinancing Indebtedness that includes a Previously Absent Financial Maintenance Covenant consists of a revolving credit facility (whether or not the documentation therefor includes any other facilities) and (y) such Previously Absent Financial Maintenance Covenant is a "springing" financial maintenance covenant for the benefit of such revolving credit facility or covenant only applicable to, or for the benefit of, a revolving credit facility, the Previously Absent Financial Maintenance Covenant shall only be included in this Agreement for the benefit of each Revolving Facility hereunder (and not for the benefit of any term loan facility hereunder) and such Permitted Refinancing Indebtedness shall not be deemed "more restrictive" solely as a result of such Previously Absent Financial Maintenance Covenant benefiting only such Revolving Facilities)); **provided**, that a certificate of Responsible Officer of the Borrower delivered to the Administrative Agent at least five Business Days prior to the Incurrence of such Indebtedness, together with a reasonably detailed description of the material terms and conditions of such Indebtedness or drafts of the documentation relating thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the foregoing requirement in clause (H) shall be conclusive evidence that such terms and conditions satisfy the foregoing requirement unless the Administrative Agent notifies the Borrower within such five Business Day period that it disagrees with such determination (including a reasonable description of the basis upon which it disagrees).

"**Permitted Unsecured Refinancing Debt**" means unsecured Indebtedness Incurred by the Borrower and/or any Subsidiary Loan Party in the form of one or more series of senior, senior subordinated or subordinated unsecured notes, bonds, debentures or loans; **provided** that (a) such Indebtedness satisfies the applicable requirements set forth in the provisos in the definition of "Credit Agreement Refinancing Indebtedness" and (b) such Indebtedness is not at any time guaranteed by any Subsidiaries of the Borrower other than Subsidiaries that are Subsidiary Loan Parties.

"**Person**" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

"**Plan**" means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"**Platform**" has the meaning assigned to such term in **Section 5.01**.

"**Pledged Collateral**" has the meaning assigned to such term in the Security Agreement.

"**Preferred Equity Interests**" mean any Equity Interests with preferential rights of payment of dividends or upon liquidation, dissolution, or winding up.

"**Prepayment Event**" means any Asset Sale Prepayment Event, Casualty Prepayment Event, Debt Incurrence Prepayment Event or Receivables Prepayment Event.

"**Prepayment Percentage**" has the meaning assigned to such term in **Section 2.11(b)**.

"**Previously Absent Financial Maintenance Covenant**" means, at any time (x) any financial maintenance covenant or other covenant or requirement that is not included in this Agreement at such time and (y) any financial maintenance covenant or other covenant or requirement in any other Indebtedness that is included in this Agreement at such time but with covenant levels or requirements that are more restrictive on the Borrower and the Restricted Subsidiaries than the covenant levels or requirements included in this Agreement at such time.

"**Prime Rate**" means, for any day, the rate of interest in effect for such day as publicly announced from time to time by the Administrative Agent as its "prime rate". The "prime rate" is a rate set by the Administrative Agent based upon various factors including the Administrative Agent's costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above or below such announced rate. Any change in such prime rate announced by the Administrative Agent shall take effect at the opening of business on the day specified in the public announcement of such change.

"**Pro Forma Entity**" means any Acquired Entity or Business, any Sold Entity or Business, any Converted Restricted Subsidiary or any Converted Unrestricted Subsidiary.

"**Proposed Change**" has the meaning assigned to such term in **Section 9.02(c)**.

"**PTE**" means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

"**Public Lender**" has the meaning assigned to such term in **Section 5.01**.

"**Purchasing Borrower Party**" mean the Borrower or any Restricted Subsidiary that makes a purchase of Loans pursuant to **Section 9.04(g)**.

"**QFC**" has the meaning assigned to the term "qualified financial contract" in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

"**QFC Credit Support**" has the meaning assigned to such term in **Section 9.20**.

"**Qualified Equity Interests**" means with respect to the Equity Interests of any Person, any Equity Interests other than Disqualified Equity Interests of such Person.

"**Qualified Proceeds**" means assets that are used or useful in, or Equity Interests of any Person engaged in, a similar business; **provided** that the Fair Market Value of any such assets or Equity Interests shall be determined by the Borrower in good faith.

"**Qualifying Lender**" has the meaning assigned to such term in **Section 2.11(a)(ii)(D)**.

"**Rating Agency**" means Moody's and S&P or if Moody's or S&P or both shall not make a rating on the Initial Term Loans and/or the Borrower and/or any other Person, instrument or security publicly available, a nationally recognized statistical rating agency or agencies, as the case may be, selected by the Borrower which shall be substituted for Moody's or S&P or both, as the case may be.

"**Real Property**" means, collectively, all right, title and interest in and to any and all parcels of or interests in real property owned or leased by any person, together with, in each case, all easements, hereditaments and appurtenances relating thereto, all improvements and appurtenant fixtures and equipment, all general intangibles and contract rights and other property and rights incidental to the ownership thereof.

"**Redemption Notice**" has the meaning set forth in **Section 6.10(a)(v)**.

"**Reference Rate**" means, on any day, an interest rate per annum equal to the rate per annum determined by the Administrative Agent at approximately 11:00 a.m. (London time) on such day by reference to ICE Benchmark Administration Limited's "LIBOR" rate (or by reference to the rates provided by any Person that take over the administration of such rate if ICE Benchmark Administration Limited is no longer making a "LIBOR" rate available) for deposits in Dollars (as set forth on the Bloomberg screen displaying such "LIBOR" rate (or, in the event such rate does not appear on a Bloomberg page or screen, on any successor or substitute page or screen that displays such rate, or on the appropriate page of such other information service that publishes such rate from time to time, in each case as selected by the Administrative Agent)) for a period equal to three-months; **provided** that, to the extent that the Adjusted LIBO Rate is not ascertainable pursuant to the foregoing, the Reference Rate shall be determined by the Administrative Agent to be the average of the rates per annum at which deposits in Dollars are offered for a three month Interest Period to major banks in the London interbank market in London, England by the Administrative Agent at approximately 11:00 a.m. (London time) on such date for delivery two Business Days later.

"**Refinance**" has the meaning assigned to such term in the definition of the term "Permitted Refinancing Indebtedness," and "**Refinanced**" and "**Refinancing**" shall have meanings correlative thereto.

"**Refunding Equity Interests**" has the meaning set forth in **Section 6.07(a)**.

"**Register**" has the meaning assigned to such term in **Section 9.04(b)(iv)**.

"**Regulation T**" has the meaning assigned to such term in Regulation T of the Federal Reserve.

"**Regulation U**" has the meaning assigned to such term in Regulation U of the Federal Reserve.

"**Regulation X**" has the meaning assigned to such term in Regulation X of the Federal Reserve.

"**Reinvestment Period**" means, with respect to any Asset Sale Prepayment Event or Casualty Prepayment Event, the day which is 18 months after the receipt of cash proceeds by the Borrower or any Restricted Subsidiary from such Asset Sale Prepayment Event or Casualty Prepayment Event.

"**Related Parties**" means, with respect to any specified Person, such Person's Affiliates and the partners, directors, officers, employees, agents and controlling persons of such Person and of each of such Person's Affiliates and permitted successors and assigns.

"**Release**" means any release, spill, emission, leaking, dumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching or migration into or through the Environment (including ambient air, indoor air, surface water, groundwater, land surface or subsurface strata) and including within, from or into any building, or any structure, facility or fixture.

"**Relevant Governmental Body**" means the Federal Reserve and/or the NYFRB, or a committee officially endorsed or convened by the Federal Reserve and/or the NYFRB.

"**Repricing Transaction**" means, with respect to the Initial Term Loans, (a) the Incurrence by the Borrower of any term "b" loans (including, without limitation, any new or additional term loans under this Agreement, whether Incurred directly or by way of the conversion of Initial Term Loans into a new Class of replacement term loans under this Agreement) that is broadly marketed or syndicated to banks, financial institutions and/or other institutional lenders or investors in financings similar to the Initial Term Loan Facility provided for in this Agreement (i) having an Effective Yield for the respective Type of such Indebtedness that is less than the Effective Yield for the Initial Term Loans of the respective equivalent Type, but excluding Indebtedness Incurred in connection with a Change in Control (or transaction that if consummated would constitute a Change in Control) or Transformative Transaction (or transaction that if consummated would constitute a Transformative Transaction) and (ii) the proceeds of which are used to prepay (or, in the case of a conversion, deemed to prepay or replace), in whole or in part, outstanding principal of Initial Term Loans or (b) any effective reduction in the Effective Yield for the Initial Term Loans (e.g., by way of amendment, waiver or otherwise), except for a reduction in connection with a Change in Control (or transaction that if consummated would constitute a Change in Control) or Transformative Transaction (or transaction that if consummated would constitute a Transformative Transaction) and, in the case of any transaction under either **clause (a)** or **clause (b)** above, the primary purpose of which is to lower the Effective Yield on the Initial Term Loans. Any determination by the Administrative Agent with respect to whether a Repricing Transaction shall have occurred shall be conclusive and binding on all Lenders holding the Initial Term Loans.

"**Required Lenders**" means, at any time, Lenders having Revolving Exposures, Term Loans and unused Commitments representing more than 50% of the aggregate Revolving Exposures, outstanding Term Loans and unused Commitments at such time; **provided** that to the extent set forth in **Section 9.02**, whenever there are one or more Defaulting Lenders, the total outstanding Term Loans and Revolving Exposures of, and the unused Commitments of, each Defaulting Lender shall in each case be excluded for purposes of making a determination of Required Lenders. Solely for purposes of this definition, Revolving Exposures shall be deemed to include all Extended Revolving Loans of all Classes, all Incremental Revolving Loans of all Classes and any letter of credit exposure, in each case then outstanding under the related Commitments.

"**Required Percentage**" means, with respect to each Excess Cash Flow Period, **50%**; **provided** that if the Consolidated First Lien Leverage Ratio at the end of any Excess Cash Flow Period, is (i) less than or equal to **3.50** to **1.00** but greater than **3.00** to **1.00**, the Required Percentage shall be **25%** or (ii) less than or equal to **3.00** to **1.00**, the Required Percentage shall be **0%**.

"**Required Reimbursement Date**" has the meaning assigned to such term in **Section 2.05(f)**.

"**Required Revolving Lenders**" means, at any time, Lenders having Revolving Exposures and unused Revolving Commitments representing more than 50% of the sum of the aggregate Revolving Exposures and the unused aggregate Revolving Commitments at such time; **provided** that to the extent set forth in **Section 9.02**, whenever there are one or more Defaulting Lenders, the total outstanding Revolving Exposures of, and the unused Revolving Commitments of, each Defaulting Lender shall in each case be excluded for purposes of making a determination of the Required Revolving Lenders.

"**Requirements of Law**" means, with respect to any Person, any statutes, laws, treaties, rules, regulations, orders, decrees, writs, injunctions or determinations of any arbitrator or 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.

"**Rescindable Amount**" has the meaning assigned to such term in **Section 2.18(d)(ii)**.

"**Resolution Authority**" means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"**Responsible Officer**" means the chief executive officer, chief accounting officer, chief operating officer, president, vice president, chief financial officer, treasurer or assistant treasurer, general counsel, secretary or other similar officer, manager or a director of a Loan Party and with respect to certain limited liability companies or partnerships that do not have officers, any director, manager, sole member, managing member or general partner thereof, as to any document delivered on the Effective Date or thereafter pursuant to **paragraph (a)(i)** of the definition of the term "Collateral and Guarantee Requirement," any secretary or assistant secretary of a Loan Party and, solely for purposes of notices given pursuant to Article II, any other officer or employee of the applicable Loan Party so designated by any of the foregoing officers in a notice to the Administrative Agent or any other officer or employee of the applicable Loan Party designated in or pursuant to an agreement between the applicable Loan Party and the Administrative Agent. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

"**Restricted Investments**" means any Investment other than a Permitted Investment.

"**Restricted Payment**" has the meaning assigned to such term in **Section 6.07**.

"**Restricted Subsidiary**" means any Subsidiary other than an Unrestricted Subsidiary.

"**Return**" means, with respect to any Investment, any dividend, distribution, interest, fee, premium, return of capital, repayment of principal, income, profit (from a Disposition or otherwise) and any other similar amount received or realized in respect thereof.

"**Revolving Availability Period**" means the period from and including the Effective Date to but excluding the earlier of the Revolving Maturity Date and the date of termination of the Revolving Commitments in accordance with the terms of this Agreement.

"**Revolving Commitment**" means, with respect to each Lender, the commitment, if any, of such Lender to make Revolving Loans and to acquire participations in Letters of Credit hereunder, expressed as an amount representing the maximum aggregate permitted amount of such Lender's Revolving Exposure hereunder, as such commitment may be (a) reduced from time to time pursuant to

Section 2.08, (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to an Assignment and Assumption or pursuant to an Incremental Revolving Commitment Increase and (c) established pursuant to an Incremental Amendment or Extension Amendment. The initial amount of each Lender's Revolving Commitment is set forth on **Schedule 2.01**. The initial aggregate amount of the Lenders' Revolving Commitments on the Effective Date is $175,000,000.

"**Revolving Commitment Fee**" has the meaning assigned to such term in **Section 2.12(a)**.

"**Revolving Exposure**" means, with respect to any Revolving Lender at any time, the aggregate outstanding principal amount of such Revolving Lender's Revolving Loans and its LC Exposure at such time.

"**Revolving Facility**" means the Initial Revolving Facility and any other Revolving Commitments.

"**Revolving Lender**" means a Lender with a Revolving Commitment or, if the Revolving Commitments have terminated or expired, a Lender with Revolving Exposure.

"**Revolving Loans**" means Loans made pursuant to **clause (b)** of **Section 2.01**.

"**Revolving Maturity Date**" means the fifth anniversary of the Effective Date; **provided** that, if such date is not a Business Day, the "Revolving Maturity Date" will be the next Business Day immediately following such date.

"**S&P**" means S&P Global Ratings, a division of S&P Global, Inc., and any successor by to its rating agency business.

"**Sale Leaseback**" means any transaction or series of related transactions pursuant to which the Borrower or any of the Restricted Subsidiaries (a) sells, transfers or otherwise disposes of any property, real or personal, whether now owned or hereafter acquired, and (b) as part of such transaction, thereafter rents or leases such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold, transferred or Disposed of.

"**Same Day Funds**" means immediately available funds.

"**Sanctioned Country**" has the meaning assigned to such term in the definition of the term "Embargoed Person".

"**Sanctions**" means all economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any European Union member state or Her Majesty's Treasury of the United Kingdom.

"**Scheduled Unavailability Date**" has the meaning assigned to such term in **Section 2.14(b)**.

"**SEC**" means the Securities and Exchange Commission or any Governmental Authority succeeding to any of its principal functions.

"**Section 5.01 Financials**" means the financial statements delivered, or required to be delivered, pursuant to **Section 5.01(a)** or **5.01(b)**.

"**Secured Cash Management Obligations**" means the due and punctual payment and performance of all obligations of the Borrower and the Restricted Subsidiaries (unless otherwise elected by the Borrower, or any Restricted Subsidiary, as applicable) in respect of any Cash Management Services provided to the Borrower or any Restricted Subsidiary (whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor)) that are (a) owed to the Administrative Agent or any of its Affiliates, (b) owed on the Effective Date to a Person that is a Lender or an Affiliate of a Lender as of the Effective Date (or who becomes a Lender or an Affiliate of a Lender within 30 days of the Effective Date) or (c) owed to a Person that is a Lender or an Affiliate of a Lender at the time such obligations are incurred or shall become a Lender or an Affiliate of a Lender after it has incurred such obligations.

"**Secured Obligations**" means (a) the Loan Document Obligations, (b) the Secured Cash Management Obligations and (c) the Secured Swap Obligations.

"**Secured Parties**" means (a) each Lender, (b) each Issuing Bank, (c) the Administrative Agent, (d) each Person to whom any Secured Cash Management Obligations are owed, (e) each counterparty to any Swap Agreement the obligations under which constitute Secured Swap Obligations, (f) the beneficiaries of each indemnification obligation undertaken by any Loan Party under any Loan Document and (g) the permitted successors and assigns of each of the foregoing.

"**Secured Swap Obligations**" means the due and punctual payment and performance of all obligations of the Borrower and the Restricted Subsidiaries (unless otherwise elected by the Borrower, or any Restricted Subsidiary, as applicable) under each Swap Agreement that (a) is with a counterparty that is the Administrative Agent or any of its Affiliates, (b) is in effect on the Effective Date with a counterparty that is a Lender or an Affiliate of a Lender as of the Effective Date (or who becomes a Lender or an Affiliate of a Lender within 30 days of the Effective Date) or (c) is entered into after the Effective Date with any counterparty that is a Lender or an Affiliate of a Lender at the time such Swap Agreement is entered into or shall become a Lender or an Affiliate of a Lender after it has entered into such agreement. Secured Swap Obligations shall in no event include any Excluded Swap Obligations.

"**Securities Act**" means the U.S. Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"**Security Agreement**" means the Pledge and Security Agreement dated as of the Effective Date, among the Loan Parties party thereto and Bank of America, N.A., in its capacity as collateral agent for the Secured Parties, substantially in the form of **Exhibit B-2**.

"**Security Documents**" means the Loan Guaranty, the Security Agreement, each Mortgage and each other security agreement, pledge agreement or other agreement or document executed and delivered pursuant to the Collateral and Guarantee Requirement, **Section 5.10**, **5.11** or **5.14** to secure any of the Secured Obligations.

"**Senior Representative**" means, with respect to any series of Indebtedness, the trustee, administrative agent, collateral agent, security agent or similar agent under the indenture or agreement pursuant to which such Indebtedness is issued, incurred or otherwise obtained, as the case may be, and each of their successors in such capacities.

"**Senior Secured Notes**" means the 4.500% Senior Secured Notes due 2029 of the Borrower issued pursuant to the Senior Secured Notes Indenture.

"**Senior Secured Notes Documents**" means the Senior Secured Notes Indenture and the other documents referred to therein (including the related guarantee, the related security and intercreditor documents, the notes and notes purchase agreement).

"**Senior Secured Notes Indenture**" means that certain indenture, dated as of the Effective Date, by and among the Borrower, the guarantors party thereto and The Bank of New York Mellon, as trustee.

"**Significant Subsidiary**" means, at any date of determination, (a) any Restricted Subsidiary whose total assets (when combined with the assets of such Restricted Subsidiary's Subsidiaries after eliminating intercompany obligations) at the last day of the most recent Test Period ended on or prior to such date of determination were equal to or greater than 15.0% of the Consolidated Total Assets of the Borrower and the Restricted Subsidiaries at such date, (b) any Restricted Subsidiary whose gross revenues (when combined with the gross revenues of such Restricted Subsidiary's Subsidiaries after eliminating intercompany obligations) for such Test Period were equal to or greater than 15.0% of the consolidated gross revenues of the Borrower and the Restricted Subsidiaries for such period, in each case determined in accordance with GAAP or (c) each other Restricted Subsidiary that, when such Restricted Subsidiary's total assets or gross revenues (when combined with the total assets or gross revenues of such Restricted Subsidiary's Subsidiaries after eliminating intercompany obligations) are aggregated with each other Restricted Subsidiary (when combined with the total assets or gross revenues of such Restricted Subsidiary's Subsidiaries after eliminating intercompany obligations) that is the subject of an Event of Default described in **clause (h)** or **(i)** of **Section 7.01** would constitute a "Significant Subsidiary" under **clause (a)** or **(b)** above.

"**Similar Business**" means any business conducted or proposed to be conducted by the Borrower and its Restricted Subsidiaries on the Effective Date or any business that is similar, complementary, reasonably related, synergistic, incidental or ancillary thereto, or is a reasonable extension, development or expansion thereof.

"**SOFR**" with respect to any Business Day means the secured overnight financing rate published for such day by the NYFRB, as the administrator of the benchmark (or a successor administrator) on the NYFRB's website (or any successor source) at approximately 8:00 a.m. (New York City time) on the immediately succeeding Business Day and, in each case, that has been selected or recommended by the Relevant Governmental Body.

"**SOFR-Based Rate**" means SOFR or Term SOFR.

"**Sold Entity or Business**" has the meaning assigned to such term in the definition of the term "Consolidated EBITDA."

"**Solicited Discount Proration**" has the meaning assigned to such term in **Section 2.11(a)(ii)(D)**.

"**Solicited Discounted Prepayment Amount**" has the meaning assigned to such term in **Section 2.11(a)(ii)(D)**.

"**Solicited Discounted Prepayment Notice**" means a written notice of a Borrower Solicitation of Discounted Prepayment Offers made pursuant to **Section 2.11(a)(ii)(D)** substantially in the form of **Exhibit L**.

"**Solicited Discounted Prepayment Offer**" means the written offer by each Term Lender, substantially in the form of **Exhibit M**, submitted following the Administrative Agent's receipt of a Solicited Discounted Prepayment Notice.

"**Solicited Discounted Prepayment Response Date**" has the meaning assigned to such term in **Section 2.11(a)(ii)(D)**.

"**Solvent**" and "**Solvency**" means, with respect to the Borrower and its Restricted Subsidiaries on a consolidated basis on the Effective Date after giving effect to the Transactions, that (a) each of the Fair Value and the Present Fair Saleable Value of the assets of the Borrower and its Restricted Subsidiaries taken as a whole exceed their Stated Liabilities and Identified Contingent Liabilities; (b) the Borrower and its Restricted Subsidiaries taken as a whole do not have Unreasonably Small Capital; and (c) the Borrower and its Restricted Subsidiaries taken as a whole can pay their Stated Liabilities and Identified Contingent Liabilities as they mature. Defined terms used in the foregoing definition shall have the meanings set forth in the solvency certificate delivered on the Effective Date pursuant to **Section 4.01(h)**.

"**Special Purpose Subsidiary**" means any (a) not-for-profit Subsidiary, (b) captive insurance company or (c) any other Subsidiary formed for a specific bona fide purpose not including substantive business operations and that does not own any material assets, in each case, that has been designated as a "Special Purpose Subsidiary" by the Borrower.

"**Specified Discount**" has the meaning assigned to such term in **Section 2.11(a)(ii)(B)**.

"**Specified Discount Prepayment Amount**" has the meaning assigned to such term in **Section 2.11(a)(ii)(B)**.

"**Specified Discount Prepayment Notice**" means a written notice of the Borrower of a Discounted Term Loan Prepayment made pursuant to **Section 2.11(a)(ii)(B)** substantially in the form of **Exhibit H**.

"**Specified Discount Prepayment Response**" means the written response by each Term Lender, substantially in the form of **Exhibit I**, to a Specified Discount Prepayment Notice.

"**Specified Discount Prepayment Response Date**" has the meaning assigned to such term in **Section 2.11(a)(ii)(B)**.

"**Specified Discount Proration**" has the meaning assigned to such term in **Section 2.11(a)(ii)(B)**.

"**Specified Event**" has the meaning assigned to such term in the definition of the term "Consolidated EBITDA".

"**Specified Voluntary Prepayment**" means any prepayment of Term Loans (and, to the extent the Revolving Commitments or Incremental Revolving Commitments are permanently reduced in a corresponding amount pursuant to **Section 2.08**, Revolving Loans or Incremental Revolving Loans) made pursuant to **Section 2.11(a)(i) or (ii)**, excluding any such prepayment funded with the proceeds of issuances of Equity Interests or Incurrences of Indebtedness (other than revolving Indebtedness). The amount of any Specified Voluntary Prepayment shall for all purposes of this Agreement be deemed to be the amount expended by the Borrower in making such Specified Voluntary Prepayment.

"**Spot Rate**" means on any day, with respect to any currency, the rate at which such currency may be exchanged into another currency, which shall be the Historical Exchange Rate on the immediately prior day as determined by OANDA Corporation and made available on its website at http://www.oanda.com/convert/fxhistory; **provided** that, if at the time of such determination, for any reason, no such rate is being so determined and made available by OANDA Corporation, the Spot Rate shall be such other spot rate as determined and made available by such other financial institution as shall be reasonably agreed by the Borrower and the Administrative Agent.

"**Stated Amount**" of any Letter of Credit mean, unless otherwise specified herein, the stated amount of such Letter of Credit in effect at such time; **provided**, **however**, that with respect to any Letter of Credit that, by its terms or the terms of any letter of credit application or other agreement related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum stated amount of such Letter of Credit after giving pro forma effect to all such increases, whether or not such maximum stated amount is in effect at such time.

"**Statutory Reserve Rate**" means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves), expressed as a decimal, established by the Federal Reserve to which the Administrative Agent is subject for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the Federal Reserve). Such reserve percentages shall include those imposed pursuant to such Regulation D. Eurocurrency Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

"**Submitted Amount**" has the meaning assigned to such term in **Section 2.11(a)(ii)(C)**.

"**Submitted Discount**" has the meaning assigned to such term in **Section 2.11(a)(ii)(C)**.

"**subsidiary**" means, with respect to any Person (the "**parent**") at any date, (a) any corporation more than 50% of whose stock of any class or classes having by the terms thereof ordinary voting power to elect a majority of the directors of such corporation (irrespective of whether or not at the time stock of any class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time owned by such Person directly or indirectly through subsidiaries and (b) any limited liability company, partnership, association, joint venture or other entity in which such Person directly or indirectly through subsidiaries has more than a 50% equity interest at the time.

"**Subsidiary**" means any subsidiary of the Borrower.

"**Subsidiary Loan Party**" means each Subsidiary of the Borrower that is a party to each of the Loan Guaranty and the Security Agreement.

"**Successor Borrower**" has the meaning assigned to such term in **Section 6.05(a)**.

"**Supported QFC**" has the meaning assigned to such term in **Section 9.20**.

"**Survey**" means a survey of any Mortgaged Property (and all improvements thereon) which is (a) (i) prepared by a surveyor or engineer licensed to perform surveys in the jurisdiction where such Mortgaged Property is located, (ii) dated (or redated) not earlier than six months prior to the date of delivery thereof unless there shall have occurred within six months prior to such date of delivery any exterior construction on the site of such Mortgaged Property or any easement, right of way or other interest in the Mortgaged Property has been granted or become effective through operation of law or otherwise with respect to such Mortgaged Property which, in either case, can be depicted on a survey, in which events, as applicable, such survey shall be dated (or redated) after the completion of such construction or if such construction shall not have been completed as of such date of delivery, not earlier than 20 days (or such earlier period as the Administrative Agent may agree) prior to such date of delivery, or after the grant or effectiveness of any such easement, right of way or other interest in the Mortgaged Property, (iii) certified by the surveyor (in a manner reasonably acceptable to the Administrative Agent) to the Administrative Agent and the title insurance company, (iv) complying in all respects with the minimum detail requirements of the American Land Title Association/National Society of Professional Surveyors as such requirements are in effect on the date of preparation of such survey and (v) sufficient for the title insurance company to remove all standard survey exceptions from the title insurance policy (or commitment) relating to such Mortgaged Property and issue the standard survey-related endorsements.

"**Swap Agreement**" means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement or any other master agreement (any such master agreement, together with any related schedules, a "**Master Agreement**"), including any such obligations or liabilities under any Master Agreement.

"**Swap**" means any agreement, contract, or transaction that constitutes a "swap" within the meaning of Section 1a(47) of the Commodity Exchange Act.

"**Swap Obligation**" means any obligation to pay or perform under any Swap.

"**Swap Termination Value**" means, in respect of any one or more Swap Agreements, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Agreements, (a) for any date on or after the date such Swap Agreements have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in **clause (a)**, the amount(s) determined as the mark-to-market value(s) for such Swap Agreements, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Agreements (which may include a Lender or any Affiliate of a Lender).

"**Taxes**" means all present or future taxes, levies, imposts, duties, deductions, charges or withholdings imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"**Term Commitment**" means an Initial Term Commitment, an Incremental Term Loan Commitment or an Extended Term Loan Commitment, as the context may require.

"**Term Lender**" means a Lender with a Term Commitment or an outstanding Term Loan.

"**Term Loan Maturity Date**" means (a) with respect to the Initial Term Loans, the Initial Term Maturity Date and (b) with respect to each Class of Incremental Term Loans and Extended Term Loans, the maturity date set forth in the applicable Incremental Amendment or Extension Amendment.

"**Term Loans**" means Initial Term Loans, Extended Term Loans and Incremental Term Loans, as the context may require.

"**Term SOFR**" means the forward-looking term rate for any period that is approximately (as reasonably determined by the Administrative Agent in consultation with the Borrower) as long as any of the Interest Period options set forth in the definition of "Interest Period" and that is based on SOFR and that has been selected or recommended by the Relevant Governmental Body, in each case as published on an information service as reasonably selected by the Administrative Agent and the Borrower from time to time in its reasonable discretion.

"**Test Period**" means, (a) for any determination under this Agreement, other than with respect to any determination of the Financial Covenant, any determination of the Applicable Rate or any determination pursuant to **Section 2.11(c)**, the most recent period of four consecutive fiscal quarters of the Borrower ended on or prior to such date of determination (taken as one accounting period) in respect of which Internal Financial Statements are available for each fiscal quarter or fiscal year in such period and (b) for any determination of the Financial Covenant, any determination of the Applicable Rate and or any determination pursuant to **Section 2.11(c)**, the most recent period of four consecutive quarters of the Borrower ended on or prior to such date of determination (taken as one accounting period) in respect of which Section 5.01 Financials shall have been delivered to the Administrative Agent for each fiscal quarter or fiscal year in such period; **provided** that, prior to the first date that Internal Financial Statements or Section 5.01 Financials are available or shall have been delivered pursuant to Section 5.01(a) or (b), the Test Period in effect shall be the period of four consecutive fiscal quarters of the Borrower ended January 2, 2021. A Test Period may be designated by reference to the last day thereof (i.e. the January 2, 2021 Test Period refers to the period of four consecutive fiscal quarters of the Borrower ended January 2, 2021), and a Test Period shall be deemed to end on the last day thereof.

"**Transaction Costs**" means all fees, costs and expenses incurred or payable by the Controlling Shareholder, the Borrower, any of their Subsidiaries or any of their Affiliates in connection with the Transactions and the other transactions contemplated hereby and thereby.

"**Transactions**" means, collectively, (a) the consummation of the transactions contemplated by this Agreement, (b) the Financing Transactions, (c) the issuance of the Senior Secured Notes, (d) the redemption of the Existing Senior Unsecured Notes, (e) the consummation of any other transactions in connection with the foregoing and (f) the payment of the Transaction Costs.

"**Transformative Transaction**" means any acquisition, merger, disposition, dissolution, consolidation or investment, in any such case, by the Borrower and the Subsidiary Loan Parties that either (a) is not permitted by the terms of this Agreement immediately prior to the consummation of such acquisition, merger, disposition, dissolution, consolidation or investment, (b) is greater than the lesser of (x) $90,000,000 and (y) 25% of Consolidated EBITDA of the Borrower and its Restricted Subsidiaries for the Test Period most recently ended on or prior to such date of determination (measured as of such date) based upon the Internal Financial Statements most recently available on or prior to such date or (c) if permitted by the terms of this Agreement immediately prior to the consummation of such acquisition, merger, disposition, dissolution, consolidation or investment, would not provide the Borrower and the Subsidiary Loan Parties with adequate flexibility under this Agreement for the continuation or expansion of their combined operations following such consummation, as determined by the Borrower acting in good faith.

"**Treasury Equity Interests**" has the meaning set forth in **Section 6.07(a)**.

"**Type**," when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBO Rate or the Alternate Base Rate.

"**UK Financial Institution**" means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended form time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any Person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

"**UK Resolution Authority**" means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

"**Uniform Commercial Code**" means the Uniform Commercial Code as from time to time in effect in the State of New York, except as context may otherwise require.

"**Unrestricted Cash**" means, as of any date of determination, cash or Cash Equivalents of the Borrower or any of its Restricted Subsidiaries on such date that would not appear as "restricted" on a consolidated balance sheet of the Borrower or any of its Restricted Subsidiaries.

"**Unrestricted Subsidiary**" means any Subsidiary designated by the Borrower as an Unrestricted Subsidiary pursuant to **Section 5.13** subsequent to the Effective Date.

"**U.S. Special Resolution Regimes**" has the meaning set forth in **Section 9.20**.

"**U.S. Tax Compliance Certificate**" has the meaning assigned to such term in **Section 2.17(e)(ii)(C)**.

"**USA PATRIOT Act**" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, as amended from time to time.

"**Voting Stock**" means, with respect to any Person, shares of such Person's Equity Interests that is at the time generally entitled, without regard to contingencies, to vote in the election of the Board of Directors of such Person. To the extent that a partnership agreement, limited liability company agreement or other agreement governing a partnership or limited liability company provides that the members of the Board of Directors of such partnership or limited liability company (or, in the case of a limited partnership whose business and affairs are managed or controlled by its general partner, the Board of Directors of the general partner of such limited partnership) is appointed or designated by one or more Persons rather than by a vote of Voting Stock, each of the Persons who are entitled to appoint or designate the members of such Board of Directors will be deemed to own a percentage of Voting Stock of such partnership or limited liability company equal to (a) the aggregate votes entitled to be cast on such Board of Directors by the members of such Board of Directors which such Person or Persons are entitled to appoint or designate divided by (b) the aggregate number of votes of all members of such Board of Directors.

"**Weighted Average Life to Maturity**" means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment (it being understood that the Weighted Average Life to Maturity shall be determined without giving effect to any change in installment or other required payments of principal resulting from prepayments following the Incurrence of such Indebtedness); by (b) the then outstanding principal amount of such Indebtedness.

"**Wholly Owned Restricted Subsidiary**" means a Restricted Subsidiary that is a Wholly Owned Subsidiary of the Borrower.

"**Wholly Owned Subsidiary**" means, with respect to any Person at any date, a subsidiary of such Person of which securities or other ownership interests representing 100% of the Equity Interests (other than (a) directors' qualifying shares, (b) nominal shares issued to foreign nationals to the extent required by applicable Requirements of Law or (c) shares sold pursuant to Local Management Plans) are, as of such date, owned, controlled or held by such Person or one or more Wholly Owned Subsidiaries of such Person or by such Person and one or more Wholly Owned Subsidiaries of such Person.

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

"**Write-Down and Conversion Power**" means (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that Person or any other Person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

SECTION 1.02. **Classification of Loans and Borrowings**. For purposes of this Agreement, Loans and Borrowings may be classified and referred to by Class (e.g., a "Revolving Loan") or by Type (e.g., a "Eurocurrency Loan") or by Class and Type (e.g., a "Eurocurrency Revolving Loan"). Borrowings also may be classified and referred to by Class (e.g., a "Revolving Loan Borrowing") or by Type (e.g., a "Eurocurrency Borrowing") or by Class and Type (e.g., a "Eurocurrency Revolving Loan Borrowing").

SECTION 1.03. **Terms Generally**. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) The words "herein," "hereto," "hereof" and "hereunder" and words of similar import when used in any Loan Document shall refer to such Loan Document as a whole and not to any particular provision thereof.

(c) The term "including" is by way of example and not limitation.

(d) Section, Exhibit and Schedule references are to the Loan Document in which such reference appears.

(e) The term "documents" includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.

(f) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including"; the words "to" and "until" each mean "to but excluding"; and the word "through" means "to and including."

(g) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

(h) Any reference to any Person shall be constructed to include such Person's successors or assigns (subject to any restrictions on assignment set forth herein) and, in the case of any Governmental Authority, any other Governmental Authority that shall have succeeded to any or all of the functions thereof.

(i) Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms.

(j) The word "will" shall be construed to have the same meaning as the word "shall."

(k) The words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(l) References to Organizational Documents, agreements (including the Loan Documents) and other contractual obligations shall be deemed to include all subsequent amendments, restatements, amendment and restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, amendment and restatements, extensions, supplements and other modifications are permitted by this Agreement.

(m) Except as expressly provided for herein, references to any Requirement of Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Requirement of Law.

SECTION 1.04. **Accounting Terms; GAAP**.

(a) All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP, applied in a manner consistent with that used in preparing the Borrower's historical financial statements, except as otherwise specifically prescribed herein; **provided**, **however**, that (i) if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision (including any definition) hereof to eliminate the effect of any Accounting Change occurring after the Effective Date on the operation of such provision and (ii) if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof to eliminate the effect of any Accounting Change occurring after the Effective Date on the operation of such provision, regardless of whether any such notice is given before or after such Accounting Change, then such provision shall be interpreted as if such Accounting Change had not occurred until such notice shall has been withdrawn or such provision amended in accordance herewith, but only to the extent that, without material burden or expense, the Borrower, its auditors and/or its financial systems are capable of interpreting such provisions as if such Accounting Change had not occurred.

(b) Where reference is made to "the Borrower and its Restricted Subsidiaries, on a consolidated basis" or similar language, such consolidation shall not include any Subsidiaries of the Borrower other than Restricted Subsidiaries.

(c) Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to any election under the Financial Accounting Standards Board's Accounting Standards Codification No. 825-Financial Instruments, or any successor thereto (including pursuant to the Accounting Standards Codification), to value any Indebtedness of the Borrower or any Subsidiary at "fair value" as defined therein.

(d) For the avoidance of doubt, notwithstanding any classification under GAAP of any Person or business in respect of which a definitive agreement for the Disposition thereof has been entered into as discontinued operations, the Consolidated Net Income of such Person or business shall not be excluded from the calculation of Consolidated Net Income until such Disposition shall have been consummated.

SECTION 1.05. **Currency Translation**. (a) For purposes of any determination under **Article V**, **Article VI** (other than for purposes of calculating the Consolidated First Lien Leverage Ratio, the Consolidated Secured Leverage Ratio, the Consolidated Total Leverage Ratio or the Consolidated Fixed Charge Coverage Ratio) or **Article VII** or any determination under any other provision of this Agreement requiring the use of a current exchange rate, all amounts Incurred, outstanding or proposed to be Incurred or outstanding in currencies other than Dollars shall be translated into Dollars at the Spot Rate then in effect on the date of such determination; **provided**, **however**, that (x) for purposes of determining compliance with **Article VI** or **Article VII** with respect to the amount of any Indebtedness, Lien, Investment, Disposition or Restricted Payment or payment under **Section 6.10** in a currency other than Dollars, no Default or Event of Default shall be deemed to have occurred solely as a result of changes in rates of exchange occurring after the time such Indebtedness, Lien or Investment is Incurred or made or Disposition or Restricted Payment or payment under **Section 6.10** is made, (y) for purposes

of determining compliance with any Dollar-denominated restriction on the Incurrence of Indebtedness, if such Indebtedness is Incurred (and, if applicable, any associated Lien granted) under a particular basket to Refinance other Indebtedness denominated in a foreign currency that was originally Incurred under the same basket, and such Refinancing would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such Refinancing, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount (or, if higher, the aggregate issue price or accreted amount, if applicable) of such Refinanced Indebtedness (and, if applicable, any associated Lien granted) does not exceed the principal amount (or, if higher, the aggregate issue price or accreted amount, if applicable) of such Indebtedness being Refinanced, except by an amount equal to the accrued interest, dividends and premium (including tender premiums), if any, thereon plus defeasance costs, underwriting discounts and other amounts paid and fees and expenses (including original issue discounts, closing payments, upfront fees and similar fees) Incurred in connection with such Refinancing plus an amount equal to any existing commitment unutilized and letters of credit undrawn thereunder plus additional amounts permitted to be incurred under **Section 6.01** and (z) for the avoidance of doubt, the foregoing provisions of this **Section 1.05** shall otherwise apply to such Sections, including with respect to determining whether any Indebtedness, Lien or Investment may be Incurred or made or Disposition or Restricted Payment or payment under **Section 6.10** made at any time under such Sections. For purposes of calculating the Consolidated First Lien Leverage Ratio, the Consolidated Secured Leverage Ratio, the Consolidated Total Leverage Ratio or the Consolidated Fixed Charge Coverage Ratio, amounts in currencies other than Dollars shall be translated into Dollars at the applicable exchange rates used in preparing the most recently delivered financial statements pursuant to **Sections 5.01(a)** or **(b)**.

(b) Each provision of this Agreement shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify with the Borrower's consent (such consent not to be unreasonably withheld) to appropriately reflect a change in currency of any country and any relevant market conventions or practices relating to such change in currency.

SECTION 1.06. **[Reserved]**.

SECTION 1.07. **Rounding**. Any financial ratios required to be maintained or complied with by the Borrower pursuant to this Agreement (or required to be satisfied in order for a specific action to be permitted under this Agreement) shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

SECTION 1.08. **Times of Day**. Unless otherwise specified, all references herein to times of day shall be references to New York City time (daylight or standard, as applicable).

SECTION 1.09. **Timing of Payment or Performance**. Unless otherwise specified (including pursuant to **Section 2.18**), when the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment or performance shall extend to the immediately succeeding Business Day.

SECTION 1.10. **Limited Condition Transactions**.

(a) In connection with any action being taken in connection with a Limited Condition Transaction, for purposes of determining compliance with any provision of this Agreement that requires that any representations and warranties are true and correct or no Default, Event of Default or specified Event of Default, as applicable, has occurred, is continuing or would result from any such

action, as applicable, such condition shall, at the option of the Borrower, be deemed satisfied, so long as such representations and warranties are true and correct (to the extent required by such provisions) as of, or no Default, Event of Default or specified Event of Default, as applicable, exists on the LCT Test Date (as defined below) for such Limited Condition Transaction. For the avoidance of doubt, if the Borrower has exercised its option under the first sentence of this clause (a), and any representation and warranty shall fail to be true and correct following the LCT Test Date for the applicable Limited Condition Transaction or any Default, Event of Default or specified Event of Default occurs following the LCT Test Date for the applicable Limited Condition Transaction and prior to or on the date of the consummation of such Limited Condition Transaction, any such failure, Default, Event of Default or specified Event of Default shall be deemed to not have occurred or be continuing for purposes of determining whether any action being taken in connection with such Limited Condition Transaction is permitted hereunder.

(b) In connection with any action being taken in connection with a Limited Condition Transaction, for purposes of:

(i) determining compliance with any provision of this Agreement which requires the calculation of the Consolidated First Lien Leverage Ratio, the Consolidated Secured Leverage Ratio, the Consolidated Total Leverage Ratio or the Consolidated Fixed Charge Coverage Ratio or any other ratio test (other than calculating the Consolidated First Lien Leverage Ratio for purposes of (i) the definition of "Applicable Rate", (ii) calculating the covenant in **Section 6.11** and (iii) **Section 2.11(c)**); or

(ii) testing baskets or any other calculations set forth in this Agreement (including baskets or any other calculations measured as a percentage of Consolidated Total Assets, Consolidated EBITDA, Fixed Charges or by reference to the Available Amount or the Available Equity Amount);

in each case, at the option of the Borrower, any of its Restricted Subsidiaries, a Parent Company, or any successor entity of any of the foregoing (including a third party) (the "**Testing Party**") (such election to exercise such option in connection with any Limited Condition Transaction, an "**LCT Election**"), with such option to be exercised on or prior to the date of execution of the definitive documentation, submission of notice or the making of definitive declaration, as applicable, with respect to such Limited Condition Transaction, the date of determination of whether any such action is permitted hereunder shall be deemed to be (x) the date on which the definitive acquisition agreements (or, if applicable, a binding offer, or launch of a "certain funds" tender offer), notice (which may be conditional) or declaration with respect to such Limited Condition Transaction are entered into, provided or made, as applicable, or the date that a certificate of an Authorized Officer of the Borrower is given with respect to the designation of a Subsidiary as restricted or unrestricted or for such Limited Condition Transaction are entered into, (y) the date of any prepayment, redemption, repurchase, defeasance, acquisition or other payment or (z) in respect of sales in connection with an acquisition to which the United Kingdom City Code on Takeovers and Mergers applies (or similar law or practice in other jurisdictions), the date on which a "Rule 2.7 announcement" of a firm intends to make an offer or similar announcement or determination in another jurisdiction subject to laws similar to the United Kingdom City Code on Takeovers and Mergers in respect of a target of a Limited Condition Transaction (the "**LCT Test Date**"), and if, after giving pro forma effect to the Limited Condition Transaction and the other transactions to be entered into in connection therewith (including any Incurrence of Indebtedness and the use of proceeds thereof) as if they had occurred at the beginning of the Test Period most recently ended on or prior to the applicable LCT Test Date, the Borrower or its Restricted Subsidiaries could have taken such action on the relevant LCT Test Date in compliance with such ratio, calculation or basket, such ratio, calculation or basket shall be deemed to have been complied with.

For the avoidance of doubt, if the Testing Party has made an LCT Election and (A) any Default or Event of Default occurs following the LCT Test Date (including any new LCT Test Date) for the applicable Limited Condition Transaction and prior to or on the date of the consummation of such Limited Condition Transaction, any such Default or Event of Default shall be deemed not to have occurred or be continuing for purposes of determining whether any action being taken in connection with such Limited Condition Transaction is permitted under this Agreement and (B) any of the ratios, calculations or baskets for which compliance was determined or tested as of the LCT Test Date are exceeded as a result of fluctuations in any such ratio, calculation or basket, including due to fluctuations in Consolidated EBITDA or Consolidated Total Assets of the Borrower, the target company or the Person subject to such Limited Condition Transaction, on or prior to the date of consummation of the relevant transaction or action, such baskets, calculations or ratios will not be deemed to have been exceeded as a result of such fluctuations and such baskets, ratios or financial metrics shall not be tested at the consummation of the Limited Condition Transaction except as contemplated in clause (a) of the immediately succeeding proviso; **provided**, **however**, (a) if financial statements for one or more subsequent Test Periods shall have become available, the Testing Party may elect, in its sole discretion, to re-determine all such baskets, ratios and financial metrics on the basis of such financial statements, in which case such date of redetermination shall thereafter be deemed to be the applicable LCT Test Date, (b) if any ratios or financial metrics improve or baskets increase as a result of such fluctuations, such improved ratios, financial metrics or baskets may be utilized and (c) Consolidated Interest Expense with respect to any Indebtedness expected to be Incurred in connection with such Limited Condition Transaction will, for purposes of the Consolidated Fixed Charge Coverage Ratio, be calculated using an assumed interest rate based on the available documentation therefor, as determined by the Testing Party in good faith. If the Testing Party has made an LCT Election for any Limited Condition Transaction, then, in connection with any subsequent calculation of the ratios, baskets or financial metrics on or following the relevant LCT Test Date and prior to the earlier of (i) the date on which such Limited Condition Transaction is consummated or (ii) the date that the definitive agreement, notice or declaration for such Limited Condition Transaction is abandoned, terminated or expires without consummation of such Limited Condition Transaction, any such ratio, basket or financial metric shall be calculated on a pro forma basis assuming such Limited Condition Transaction and other transactions in connection therewith (including any Incurrence of Indebtedness or Liens and the use of proceeds thereof) have been consummated.

SECTION 1.11. **Pro Forma and Other Calculations**.

(a) Notwithstanding anything to the contrary herein, but subject to **Section 1.10**, financial ratios and tests (including measurements of Consolidated Total Assets or Consolidated EBITDA), including the Consolidated Fixed Charge Coverage Ratio, Consolidated First Lien Leverage Ratio, Consolidated Secured Leverage Ratio and Consolidated Total Leverage Ratio, shall be calculated in the manner prescribed by this **Section 1.11**; **provided** that, notwithstanding anything to the contrary in **clauses (b)**, **(c)**, **(d)** or **(e)** of this **Section 1.11**, when calculating the Consolidated First Lien Leverage Ratio for purposes of (i) the definition of "Applicable Rate,", (ii) calculating the covenant in **Section 6.11** and (iii) the Excess Cash Flow step-downs under **Section 2.11(c)**, the events described in this **Section 1.11** that occurred subsequent to the end of the applicable Test Period shall not be given pro forma effect; **provided**, **however**, that for purposes of any determination of the Consolidated First Lien Leverage Ratio for purposes of the Excess Cash Flow sweep levels under **Section 2.11(c)**, Consolidated First Lien Debt shall be determined after giving pro forma effect to any (A) voluntary prepayments of Term Loans made pursuant to **Section 2.11(a)**, (B) the Senior Secured Notes and other secured Permitted Additional Debt and secured Credit Agreement Refinancing Indebtedness constituting First Lien Obligations, in each case voluntarily prepaid, repurchased, defeased, acquired, redeemed or similarly paid, (C) the aggregate principal amount of Term Loans assigned to any Purchasing Borrower Party (or, if lower, the aggregate amount of cash consideration paid by any Purchasing Borrower Party) pursuant to **Section 9.04(g)**, but only to the extent that such Term Loans have been cancelled and (D) the aggregate amount of all permanent reductions of Revolving Commitments, Extended Revolving Commitments, Incremental

Revolving Commitments pursuant to **Section 2.08(b)** (for the avoidance of doubt, excluding any such commitment reductions required by the proviso to **Section 2.20(b)** or in connection with the Incurrence of any Credit Agreement Refinancing Indebtedness Incurred to Refinance any Revolving Commitments, Incremental Revolving Commitments and/or Extended Revolving Commitments), in each case, after the end of the Borrower's most recently ended full fiscal year and prior to the date of the applicable payment to be made pursuant to such **Section 2.11(c)** assuming such prepayments had been made on the last day of such fiscal year. In addition, whenever a financial ratio or test is to be calculated on a pro forma basis or requires pro forma compliance, the reference to "Test Period" for purposes of calculating such financial ratio or test shall be deemed to be a reference to, and shall be based on, the most recently ended Test Period for which Internal Financial Statements are available.

(b) For purposes of calculating any financial ratio or test (including Consolidated Total Assets or Consolidated EBITDA), Specified Events (with any Incurrence or Refinancing of any Indebtedness in connection therewith to be subject to **clause (d)** of this **Section 1.11**) that have been made (i) during the applicable Test Period or (ii) subsequent to such Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made shall be calculated on a pro forma basis assuming that all such Specified Events (and any increase or decrease in Consolidated EBITDA and the component financial definitions used therein attributable to any Specified Event) had occurred on the first day of the applicable Test Period (or, in the case of Consolidated Total Assets or "unrestricted" cash and Cash Equivalents, on the last day of the applicable Test Period). If, since the beginning of any applicable Test Period, any Person that subsequently became a Restricted Subsidiary or was merged, amalgamated or consolidated with or into the Borrower or any Restricted Subsidiary since the beginning of such Test Period shall have made any Specified Event that would have required adjustment pursuant to this **Section 1.11**, then such financial ratio or test (including Consolidated Total Assets and Consolidated EBITDA) shall be calculated to give pro forma effect thereto in accordance with this **Section 1.11**.

(c) Whenever pro forma effect or a determination of pro forma compliance (or words to similar effect) is to be given to a Specified Event, the pro forma calculations shall be made in good faith by a Responsible Officer of the Borrower and may include, for the avoidance of doubt and without duplication, the amount of "run rate" cost savings, operating expense reductions and cost synergies and other synergies projected by the Borrower in good faith to result from any Specified Event, in each case, as calculated in accordance with and permitted by, **clause (2)** of the definition of Consolidated EBITDA.

(d) In the event that the Borrower or any Restricted Subsidiary Incurs (including by assumption or guarantee) or Refinances (including by redemption, repurchase, repayment, retirement or extinguishment) any Indebtedness (other than normal fluctuations in revolving Indebtedness Incurred for working capital purposes), in each case included in the calculations of any financial ratio or test that is to be calculated on a pro forma basis, (i) during the applicable Test Period or (ii) subsequent to the end of the applicable Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made, then such financial ratio or test shall be calculated giving pro forma effect to such Incurrence or Refinancing of Indebtedness (including pro forma effect to the application of the net proceeds therefrom), in each case to the extent required, as if the same had occurred on the last day of the applicable Test Period (except in the case of the Consolidated Fixed Charge Coverage Ratio (or similar ratio), in which case such Incurrence or Refinancing of Indebtedness will be given effect, as if the same had occurred on the first day of the applicable Test Period).

(e) If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the date of the event for which the calculation of the Consolidated Fixed Charge Coverage Ratio is made had been the applicable rate for the entire period (taking into account any interest Swap Agreements applicable to such Indebtedness). To the extent interest expense generated by Swap Obligations that have been terminated is

included in Consolidated Interest Expense prior to the date of the event for which the calculation of the Consolidated Fixed Charge Coverage Ratio is being made, Consolidated Interest Expense shall be adjusted to exclude such expense. Interest on a Financing Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a Responsible Officer of the Borrower to be the rate of interest implicit in such Financing Lease Obligation in accordance with GAAP. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be determined to have been based upon the rate actually chosen, or if none, then based upon such optional rate chosen as the Borrower or applicable Restricted Subsidiary may designate. For purposes of making the computations referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period or, if lower, the maximum commitments under such revolving credit facility as of the date of the event for which the calculation of the Consolidated Fixed Charge Coverage Ratio is being made, except as set forth in **Section 1.11(d)**.

(f) Any such pro forma calculation may include, without duplication, (1) all adjustments of the type described in **clause (a)(viii)** of the definition of "Consolidated EBITDA" to the extent such adjustments continue to be applicable to such Test Period, and (2) adjustments calculated in accordance with Regulation S-X under the Securities Act.

(g) For purposes of determining the permissibility of any action, change, transaction or event that requires a calculation of any Fixed Amount, Incurrence-Based Amount or, except as described in **Section 1.11(a)**, any other financial ratio, test, covenant, calculation or measurement (including, any Consolidated First Lien Leverage Ratio test, any Consolidated Secured Leverage Ratio test, any Consolidated Total Leverage Ratio test, any Consolidated Fixed Charge Coverage Ratio test, unrestricted cash and the amount of Consolidated EBITDA, Fixed Charges and/or Consolidated Total Assets), such Fixed Amount, Incurrence-Based Amount or other financial ratio, test, covenant, calculation or measurement shall be calculated at the time such action is taken (subject to **Section 1.10**), such change is made, such transaction is consummated or such event occurs, as the case may be, and no Default or Event of Default shall be deemed to have occurred solely as a result of a change in such Fixed Amount, Incurrence-Based Amount or other financial ratio, test, covenant, calculation or measurement occurring after the time such action is taken, such change is made, such transaction is consummated or such event occurs, as the case may be.

(h) Notwithstanding anything to the contrary herein, with respect to any amounts Incurred or transactions entered into (or consummated) in reliance on a provision of this Agreement (including any covenant or the definition of Incremental Base Amount) that does not require compliance with a financial ratio or test (including any Consolidated First Lien Leverage Ratio test, any Consolidated Secured Leverage Ratio test, any Consolidated Total Leverage Ratio test and/or any Consolidated Fixed Charge Coverage Ratio test) (any such amounts, the "**Fixed Amounts**") substantially concurrently, simultaneously or contemporaneously with any amounts Incurred or transactions entered into (or consummated) in reliance on a provision of this Agreement that requires compliance with a financial ratio or test (including, amounts Incurred under the Incremental Ratio Debt Amount) any Consolidated First Lien Debt to Consolidated EBITDA Ratio test, any Consolidated Secured Debt to Consolidated EBITDA Ratio test, any Consolidated Total Debt to Consolidated EBITDA Ratio test and/or any Consolidated EBITDA to Fixed Charges Ratio test) (any such amounts, the "**Incurrence-Based Amounts**"), it is understood and agreed that the Fixed Amounts (including amounts Incurred under the Incremental Base Amount) shall be disregarded in the calculation of the financial ratio or test applicable to the Incurrence-Based Amounts (including amounts Incurred under the Incremental Ratio Debt Amount).

(i) Notwithstanding anything to the contrary herein, except to the extent expressly required to be calculated otherwise in **Section 2.20** or **Section 6.01(o)** for any Incremental Revolving Commitment Increases or Incremental Revolving Commitments, in the event an item of Indebtedness (or any portion thereof) is Incurred, any Lien is Incurred or other transaction is undertaken in reliance on an Incurrence-Based Amount, such Incurrence-Based Amount shall be calculated without regard to the Incurrence of any Indebtedness under any revolving facility or letter of credit facility immediately prior to, simultaneously or contemporaneously with, or in connection therewith.

(j) Notwithstanding anything to the contrary herein, so long as an action was taken (or not taken) in reliance upon a basket, ratio or test under this Agreement that was calculated or determined in good faith by an Authorized Officer of the Borrower based upon financial information available to such officer at such time and such action (or inaction) was permitted under this Agreement at the time of such calculation or determination, any subsequent restatement, modification or adjustments made to such financial information (including any restatement, modification or adjustment that would have caused such basket, ratio or test to be exceeded as a result of such action or inaction) shall not result in any Default or Event of Default under this Agreement.

(k) For purposes of the calculation of the Consolidated First Lien Leverage Ratio, the Consolidated Secured Leverage Ratio, the Consolidated Total Leverage Ratio and/or the Consolidated Fixed Charge Coverage Ratio in connection with the Incurrence of any Indebtedness under a revolving credit or other similar facility in connection with entering into a commitment letter or similar agreement with respect to the Incurrence of any Indebtedness that would not be prohibited under **Section 6.01** (and, in each case, any Lien securing such Indebtedness pursuant to **Section 6.02**), such Person may elect, pursuant to a certificate of an Authorized Officer of the Borrower delivered to the Administrative Agent, to treat all or any portion of the commitment (such amount elected until revoked as described below, the "**Elected Amount**") under any such Indebtedness which is to be Incurred (or any commitment in respect thereof) or secured by such Lien (whether by the Borrower, its Restricted Subsidiaries or any third party), as the case may be, as being Incurred or secured, as the case may be, as of the date such certificate is delivered and (i) any subsequent Incurrence of such Indebtedness or such Lien under such commitment that was so treated (so long as the total amount under such Indebtedness does not exceed the Elected Amount) shall not be deemed, for purposes of this calculation, to be an Incurrence of additional Indebtedness or an additional Lien at such subsequent time, (ii) such Person may revoke an election of an Elected Amount pursuant to a certificate of an Authorized Officer of the Borrower delivered to the Administrative Agent and (iii) at all times thereafter, for subsequent calculations of the Consolidated First Lien Leverage Ratio, the Consolidated Secured Leverage Ratio, the Consolidated Total Leverage Ratio and/or the Consolidated Fixed Charge Coverage Ratio, the Elected Amount (if any) shall be deemed to be outstanding, whether or not such amount is actually outstanding.

SECTION 1.12. **Divisions**. For all purposes under the Loan Documents, in connection with any division or plan of division of or with respect to any Person under Delaware law (or any comparable event under the applicable law of any other jurisdiction), if, pursuant thereto, (a) any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been Disposed by the original Person to the subsequent Person, and (b) any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

SECTION 1.13. **Interest Rates**. The Administrative Agent does not warrant, nor accept responsibility, nor shall the Administrative Agent have any liability with respect to the administration, submission or any other matter related to the rates in the definition of "LIBO Rate" or with respect to any rate that is an alternative or replacement for or successor to any of such rate (including, without limitation, any LIBOR Successor Rate) or the effect of any of the foregoing, or of any LIBOR Successor Rate Conforming Changes.

ARTICLE II

The Credits

SECTION 2.01. **Commitments**. Subject to the terms and conditions set forth herein, (a) each Initial Term Lender agrees to make a loan (an "**Initial Term Loan**") to the Borrower on the Effective Date denominated in Dollars in a principal amount not exceeding its Initial Term Commitment and (b) each Revolving Lender agrees to make Revolving Loans to the Borrower denominated in Dollars from time to time during the Revolving Availability Period in an aggregate principal amount which will not result in such Lender's Revolving Exposure exceeding such Lender's Revolving Commitment or the aggregate Revolving Exposures exceeding the aggregate Revolving Commitments. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Revolving Loans. Amounts repaid or prepaid in respect of Term Loans may not be reborrowed.

SECTION 2.02. **Loans and Borrowings**.

(a) Each Loan shall be made as part of a Borrowing consisting of Loans of the same Class and Type made by the Lenders ratably in accordance with their respective Commitments of the applicable Class.

(b) Subject to **Section 2.14**, each Revolving Loan Borrowing and Term Loan Borrowing shall be comprised entirely of ABR Loans or Eurocurrency Loans as the Borrower may request in accordance herewith; **provided** that all Borrowings made on the Effective Date must be made as ABR Borrowings unless the Borrower shall have given the notice required for a Eurocurrency Borrowing under **Section 2.03** and provided an indemnity letter extending the benefits of **Section 2.16** to Lenders in respect of such Borrowings.

(c) At the commencement of each Interest Period for any Eurocurrency Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum; **provided** that a Eurocurrency Borrowing that results from a continuation of an outstanding Eurocurrency Borrowing may be in an aggregate amount that is equal to such outstanding Borrowing. At the time that each ABR Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum. Borrowings of more than one Type and Class may be outstanding at the same time; **provided** that there shall not at any time be more than a total of 10 Eurocurrency Borrowings outstanding, which total may be increased after the Effective Date upon agreement of the Borrower and the Administrative Agent to the extent that any new Classes of Loans, whether pursuant to **Section 2.20** or **2.21**, or otherwise, are created under this Agreement. Notwithstanding anything to the contrary herein, an ABR Revolving Loan Borrowing may be in an aggregate amount equal to the entire unused balance of the aggregate Revolving Commitments or that is required to finance the reimbursement of an LC Disbursement as contemplated by **Section 2.05(f)**.

SECTION 2.03. **Requests for Borrowings**. To request a Revolving Loan Borrowing or Term Loan Borrowing, the Borrower shall notify the Administrative Agent of such request by telephone or a Notice of Borrowing (a) in the case of a Eurocurrency Borrowing, not later than 11:00 a.m., New York City time, three Business Days before the date of the proposed Borrowing (or, in the case of any Eurocurrency Borrowing to be made on the Effective Date, such shorter period of time as may be agreed to by the Administrative Agent) or (b) in the case of an ABR Borrowing, not later than 11:00 a.m., New York City time, on the Business Day of such proposed Borrowing; **provided** that any such notice of such ABR Revolving Loan Borrowing to finance the reimbursement of an LC Disbursement as

contemplated by **Section 2.05(f)** may be given not later than 12:00 p.m., New York City time, on the date of the proposed Borrowing. Each such telephonic notice or Notice of Borrowing, only in the case of Revolving Borrowings, shall be irrevocable and any such telephonic notice shall be confirmed promptly by delivery to the Administrative Agent of a Notice of Borrowing signed by a Responsible Officer of the Borrower. Each such telephonic notice and Notice of Borrowing shall specify the following information:

(i) whether the requested Borrowing is to be a Borrowing of Revolving Loans, a Borrowing of Term Loans or a Borrowing of any other Class (specifying the Class thereof);

(ii) the aggregate amount of such Borrowing;

(iii) the date of such Borrowing, which shall be a Business Day;

(iv) whether such Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing;

(v) in the case of a Eurocurrency Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and

(vi) the location and number of the Borrower's account to which funds are to be disbursed, which shall comply with the requirements of **Section 2.06**, or, in the case of any ABR Revolving Loan Borrowing requested to finance the reimbursement of an LC Disbursement as provided in **Section 2.05(f)**, the identity of the Issuing Bank that made such LC Disbursement.

If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurocurrency Borrowing, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Notice of Borrowing in accordance with this Section, the Administrative Agent shall advise each Lender of the applicable Class of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

SECTION 2.04. **[Reserved]**.

SECTION 2.05. **Letters of Credit**.

(a) General. Subject to the terms and conditions set forth herein (including **Section 2.22**), each Issuing Bank agrees, in reliance upon the agreements of the Revolving Lenders set forth in this **Section 2.05**, to issue Letters of Credit denominated in Dollars for the Borrower's own account (or for the account of any other Subsidiary of the Borrower so long as the Borrower and such other Subsidiary are co-applicants in respect of such Letter of Credit), in a form reasonably acceptable to the Administrative Agent and the applicable Issuing Bank, which shall reflect the standard operating procedures of such Issuing Bank, at any time and from time to time during the Revolving Availability Period and prior to the fifth Business Day prior to the Revolving Maturity Date. Each Existing Letter of Credit shall be deemed, for all purposes of this Agreement (including paragraphs (e) and (f) of this Section), to be a Letter of Credit issued hereunder for the account of the Borrower. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Borrower to, or entered into by the Borrower with, the applicable Issuing Bank relating to any Letter of Credit, the terms and conditions of

this Agreement shall control. Notwithstanding anything herein to the contrary, no Issuing Bank shall have any obligation hereunder to issue, and no Issuing Bank shall issue, any Letter of Credit the proceeds of which would be made available to any Person (i) for the purpose of funding any activity or business of or with any Embargoed Person, or in any country or territory that, at the time of such funding, is the subject of any Sanctions, except, in each instance, to the extent permitted for a person required to comply with Sanctions or (ii) in any manner that would result in a violation of any Sanctions by any party to this Agreement.

(b) Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of a Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Borrower shall deliver in writing by hand delivery or facsimile (or transmit by electronic communication, if arrangements for doing so have been approved by the recipient) to the applicable Issuing Bank and the Administrative Agent (at least three Business Days before the requested date of issuance, amendment, renewal or extension or such shorter period as the applicable Issuing Bank and the Administrative Agent may agree) a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, and specifying the date of issuance, amendment, renewal or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with **paragraph (d)** of this Section), the amount of such Letter of Credit, the name and address of the beneficiary thereof and such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. If reasonably requested by the applicable Issuing Bank, the Borrower also shall submit a letter of credit application on such Issuing Bank's standard form in connection with any request for a Letter of Credit. A Letter of Credit shall be issued, amended, renewed or extended only if (and upon issuance, amendment, renewal or extension of any Letter of Credit the Borrower shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension, (i) the aggregate Revolving Exposures shall not exceed the aggregate Revolving Commitments, (ii) the aggregate LC Exposure shall not exceed the Letter of Credit Sublimit, (iii) unless otherwise agreed by such Issuing Bank, the portion of the aggregate LC Exposure attributable to Letters of Credit issued by any Issuing Bank shall not exceed its LC Commitment and (iv) the conditions set forth in **Section 4.02** shall have been satisfied. No Issuing Bank shall be under any obligation to issue any Letter of Credit if (i) any order, judgment or decree of any Governmental Authority or arbitrator shall enjoin or restrain such Issuing Bank from issuing the Letter of Credit, or any Requirement of Law applicable to such Issuing Bank or any directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such Issuing Bank shall prohibit the issuance of letters of credit generally or the Letter of Credit in particular or (ii) any Lender is at that time a Defaulting Lender, if after giving effect to **Section 2.22(a)(iv)**, any Defaulting Lender Fronting Exposure remains outstanding, unless such Issuing Bank has entered into arrangements, including the delivery of Cash Collateral, reasonably satisfactory to such Issuing Bank with the Borrower or such Lender to eliminate such Issuing Bank's Defaulting Lender Fronting Exposure arising from either the Letter of Credit then proposed to be issued or such Letter of Credit and all other LC Exposure as to which such Issuing Bank has Defaulting Lender Fronting Exposure.

(c) Notice. Each Issuing Bank agrees that it shall not permit any issuance, amendment, renewal or extension of a Letter of Credit to occur unless it shall have given to the Administrative Agent written notice thereof required under **paragraph (m)** of this Section.

(d) Expiration Date. Each Letter of Credit shall expire at or prior to the close of business on the earlier of (i) the date that is one year after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, one year after such renewal or extension) and (ii) the Letter of Credit Maturity Date; **provided** that if such expiry date is not a Business Day, such Letter of Credit shall expire at or prior to the close of business on the next succeeding Business Day; **provided**, **further**, that any Letter of Credit may, upon the request of the Borrower, include a provision whereby

such Letter of Credit shall be renewed automatically for additional consecutive periods of one year or less (but not beyond the date that is five Business Days prior to the Revolving Maturity Date except to the extent Cash Collateralized or backstopped pursuant to arrangements reasonably acceptable to the relevant Issuing Bank) unless the applicable Issuing Bank notifies the beneficiary thereof within the time period specified in such Letter of Credit or, if no such time period is specified, at least 30 days prior to the then-applicable expiration date, that such Letter of Credit will not be renewed.

(e) Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) and without any further action on the part of the Issuing Bank that is the issuer thereof or the Lenders, such Issuing Bank hereby grants to each Revolving Lender, and each Revolving Lender hereby acquires from such Issuing Bank, a participation in such Letter of Credit equal to such Revolving Lender's Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit. In consideration and in furtherance of the foregoing, in the event that any LC Disbursement is not reimbursed by the Borrower, each Revolving Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent its Applicable Percentage of the payment then due from the Borrower as provided in **paragraph (f)** of this Section in Dollars, or of any reimbursement payment required to be refunded to the Borrower for any reason. Each Revolving Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any issuance, amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or any reduction or termination of the Revolving Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

(f) Reimbursement. If an Issuing Bank shall make any LC Disbursement in respect of a Letter of Credit, the Issuing Bank shall notify the Borrower of such LC Disbursement in accordance with the provisions of **Section 2.05(h)** and the Borrower shall reimburse such LC Disbursement by paying, whether with its own funds, with the proceeds of Revolving Loans or any other source, to the Administrative Agent the amount of such LC Disbursement (in Dollars) (i) within one Business Day of the date that the Borrower receives notice of such LC Disbursement, if the Issuing Bank provides such notice to the Borrower prior to 11:00 a.m. New York City time on such date or (ii) if such notice is received after such time, on the second Business Day following the date of receipt of such notice (such required date for reimbursement under **clause (i)** or **(ii)**, as applicable, the "**Required Reimbursement Date**"), with interest on the amount of such LC Disbursement payable from and including the date of such LC Disbursement to but excluding the Required Reimbursement Date at a rate per annum described in **Section 2.05(i)**. If the Borrower fails to make such payment when due, the Administrative Agent shall notify each Revolving Lender of the applicable LC Disbursement, the payment then due from the Borrower in respect thereof and such Revolving Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Revolving Lender shall pay to the Administrative Agent its Applicable Percentage of the payment then due from the Borrower, in Dollars, and in the same manner as provided in **Section 2.06** with respect to Loans made by such Lender (and **Section 2.06** shall apply, mutatis mutandis, to the payment obligations of the Revolving Lenders pursuant to this paragraph), and the Administrative Agent shall promptly remit to the applicable Issuing Bank the amounts so received by it from the Revolving Lenders. Promptly following receipt by the Administrative Agent of any payment from the Borrower pursuant to this paragraph, the Administrative Agent shall distribute such payment to the applicable Issuing Bank or, to the extent that Revolving Lenders have made payments pursuant to this paragraph to reimburse such Issuing Bank, then to such Revolving Lenders and such Issuing Bank as their interests may appear. Any payment made by a Revolving Lender pursuant to this paragraph to reimburse any Issuing Bank for any LC Disbursement (other than the funding of ABR Revolving Loans as contemplated above) shall not constitute a Loan and shall not relieve the Borrower of its obligation to reimburse such LC Disbursement.

(g) Obligations Absolute. The Borrower's obligation to reimburse LC Disbursements as provided in **paragraph (f)** of this Section is absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision therein, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by the Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrower's obligations hereunder. None of the Administrative Agent, the Lenders nor any Issuing Bank shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of such Issuing Bank; **provided** that the foregoing shall not be construed to excuse any Issuing Bank from liability to the Borrower to the extent of any direct damages (as opposed to consequential or punitive damages) suffered by the Borrower that are caused by such Issuing Bank's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence, bad faith or wilful misconduct on the part of any Issuing Bank (as determined by a court of competent jurisdiction in a final and non-appealable judgment), such Issuing Bank shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented that appear on their face to be in substantial compliance with the terms of a Letter of Credit, an Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(h) Disbursement Procedures. Each Issuing Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. Each Issuing Bank shall promptly notify the Administrative Agent and the Borrower by telephone (confirmed by hand delivery, e-mail of a "pdf" or facsimile) of such demand for payment and whether such Issuing Bank has made or will make an LC Disbursement thereunder; **provided** that any delay in giving such notice shall not relieve the Borrower of its obligation to reimburse such Issuing Bank and the Revolving Lenders with respect to any such LC Disbursement in accordance with **paragraph (f)** of this Section.

(i) Interim Interest. If an Issuing Bank shall make any LC Disbursement, then, unless the Borrower shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the Borrower reimburses such LC Disbursement, at the rate per annum then applicable to ABR Revolving Loans; **provided** that, if the Borrower fails to reimburse such LC Disbursement by the Required Reimbursement Date, then **Section 2.13(c)** shall apply. Interest accrued pursuant to this paragraph shall be paid to the Administrative Agent, for the account of the applicable Issuing Bank, except that interest accrued on and after the date of payment by any Revolving Lender pursuant to **paragraph (f)** of this Section to reimburse such Issuing Bank shall be for the account of such Lender to the extent of such payment and shall be payable on demand or, if no demand has been made, on the date on which the Borrower reimburses the applicable LC Disbursement in full.

(j) Cash Collateralization. If (i) any Event of Default shall occur and be continuing or (ii) as of the fifth Business Day prior to the Revolving Maturity Date, any Letter of Credit may for any reason remain outstanding and partially or wholly undrawn, on the Business Day on which the Borrower receives notice from the Administrative Agent or the Required Lenders (or, if the maturity of the Loans has been accelerated, the Required Revolving Lenders) demanding Cash Collateral pursuant to this paragraph, the Borrower shall Cash Collateralize an amount equal to the LC Exposure as of such date plus any accrued and unpaid interest thereon; **provided** that the obligation to deposit such Cash Collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in **paragraph (h)** or **(i)** of **Section 7.01**. Each such deposit of Cash Collateral shall be held by the Administrative Agent as collateral for the payment and performance of the obligations of the Borrower under this Agreement. At any time that there shall exist a Defaulting Lender, if any Defaulting Lender Fronting Exposure remains outstanding (after giving effect to **Section 2.22(a)(iv)**), then promptly upon the request of the Administrative Agent or the Issuing Bank, the Borrower shall deliver to the Administrative Agent Cash Collateral in an amount sufficient to cover such Defaulting Lender Fronting Exposure (after giving effect to any Cash Collateral provided by the Defaulting Lender). The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Administrative Agent in Cash Equivalents and at the Borrower's risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Notwithstanding anything to the contrary in this Agreement, moneys in such account shall be applied by the Administrative Agent to reimburse the Issuing Banks for LC Disbursements for which they have not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrower for the LC Exposure at such time. If the Borrower is required to provide an amount of Cash Collateral hereunder as a result of the occurrence of an Event of Default or the existence of a Defaulting Lender, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within one Business Day after all Events of Default are no longer continuing or after the termination of Defaulting Lender status, as applicable.

(k) Designation of Additional Issuing Banks. The Borrower may, at any time and from time to time, designate as additional Issuing Banks one or more Revolving Lenders that agree to serve in such capacity as provided below. The acceptance by a Revolving Lender of an appointment as an Issuing Bank hereunder shall be evidenced by an agreement, which shall be in form and substance reasonably satisfactory to the Administrative Agent and the Borrower, executed by the Borrower, the Administrative Agent and such designated Revolving Lender and, from and after the effective date of such agreement, (i) such Revolving Lender shall have all the rights and obligations of an Issuing Bank under this Agreement and (ii) references herein to the term "Issuing Bank" shall be deemed to include such Revolving Lender in its capacity as an issuer of Letters of Credit hereunder. The Borrower shall provide notice to the Administrative Agent of the designation of any additional Issuing Bank.

(l) Termination of an Issuing Bank. The Borrower may terminate the appointment of any Issuing Bank as an "Issuing Bank" hereunder by providing a written notice thereof to such Issuing Bank, with a copy to the Administrative Agent. Any such termination shall become effective upon the earlier of (i) such Issuing Bank's acknowledging receipt of such notice and (ii) the fifth Business Day following the date of the delivery thereof; **provided** that no such termination shall become effective until and unless the LC Exposure attributable to Letters of Credit issued by such Issuing Bank (or its Affiliates) shall have been reduced to zero or Cash Collateralized in full. At the time any such termination shall

become effective, the Borrower shall pay all unpaid fees accrued for the account of the terminated Issuing Bank pursuant to **Section 2.12(b)**. Notwithstanding the effectiveness of any such termination, the terminated Issuing Bank shall remain a party hereto and shall continue to have all the rights of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such termination, but shall not issue any additional Letters of Credit. The Borrower shall provide notice to the Administrative Agent of the termination of the appointment of any Issuing Bank.

(m) Issuing Bank Reports to the Administrative Agent. Unless otherwise agreed by the Administrative Agent, each Issuing Bank (other than the Administrative Agent) shall, in addition to its notification obligations set forth elsewhere in this Section, report in writing to the Administrative Agent (i) periodic activity (for such period or recurrent periods as shall be requested by the Administrative Agent) in respect of Letters of Credit issued by such Issuing Bank, including all issuances, extensions, amendments and renewals, all expirations and cancellations and all disbursements and reimbursements, (ii) within five Business Days following the time that such Issuing Bank issues, amends, renews or extends any Letter of Credit, the date of such issuance, amendment, renewal or extension, and the currency and face amount of the Letters of Credit issued, amended, renewed or extended by it and outstanding after giving effect to such issuance, amendment, renewal or extension (and whether the amounts thereof shall have changed), (iii) within three Business Days prior to the last Business Day of each March, June, September and December, a list of all Letters of Credit issued by it that are outstanding at such time and the amount outstanding, (iv) on each Business Day on which such Issuing Bank makes any LC Disbursement, the date, currency and amount of such LC Disbursement, (v) on any Business Day on which the Borrower fails to reimburse an LC Disbursement required to be reimbursed to such Issuing Bank on such day, the date of such failure and the amount of such LC Disbursement and (vi) on any other Business Day, such other information as the Administrative Agent shall reasonably request as to the Letters of Credit issued by such Issuing Bank.

(n) Applicability of ISP and UCP. Unless otherwise expressly agreed by the applicable Issuing Bank and the Borrower when a Letter of Credit is issued, (i) the rules of the ISP shall apply to each standby Letter of Credit, and (ii) the rules of the Uniform Customs and Practice for Documentary Credits, as most recently published by the International Chamber of Commerce at the time of issuance, shall apply to each commercial Letter of Credit.

SECTION 2.06. **Funding of Borrowings**.

(a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of Same Day Funds by 1:00 p.m. (or, in the case of an ABR Loan to be funded on a same-day basis, the later of (i) 1:00 p.m. and (ii) two hours following delivery by the Borrower of the applicable Notice of Borrowing), New York City time, to the Applicable Account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders. The Administrative Agent will make such Loans available to the Borrower by promptly crediting the amounts so received, in like funds, to an account of the Borrower maintained with the Administrative Agent in New York City and/or such other account otherwise designated by the Borrower in the applicable Notice of Borrowing; **provided** that ABR Revolving Loans made to finance the reimbursement of an LC Disbursement as provided in **Section 2.05(f)** shall be remitted by the Administrative Agent to the applicable Issuing Bank or, to the extent that Revolving Lenders have made payments pursuant to **Section 2.05(f)** to reimburse such Issuing Bank, then to such Lenders and such Issuing Bank as their interests may appear.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with **paragraph (a)** of this Section and may, in reliance on such assumption and in its sole discretion, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender agrees to pay to the Administrative Agent an amount equal to such share on demand of the Administrative Agent. If such Lender does not pay such corresponding amount forthwith upon demand of the Administrative Agent therefor, the Administrative Agent shall promptly notify the Borrower, and the Borrower agrees to pay such corresponding amount to the Administrative Agent forthwith on demand. The Administrative Agent shall also be entitled to recover from such Lender or Borrower interest on such corresponding amount, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, a rate equal to the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, or (ii) in the case of the Borrower, the interest rate applicable to such Borrowing in accordance with **Section 2.13**. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing.

(c) The obligations of the Lenders hereunder to make Term Loans and Revolving Loans, to fund participations in Letters of Credit and to make payments pursuant to **Section 9.03(c)** are several and not joint. The failure of any Lender to make any Loan, to fund any such participation or to make any payment under **Section 9.03(c)** on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and, except with respect to **Section 2.22**, no Lender shall be responsible for the failure of any other Lender to so make its Loan, to purchase its participation or to make its payment under **Section 9.03(c)**.

SECTION 2.07. **Interest Elections**.

(a) Each Revolving Loan Borrowing and Term Loan Borrowing initially shall be of the Type specified in the applicable Notice of Borrowing and, in the case of a Eurocurrency Borrowing, shall have an initial Interest Period as specified in such Notice of Borrowing or designated by **Section 2.03**. Thereafter, the Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Eurocurrency Borrowing, may elect Interest Periods therefor, all as provided in this Section. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing.

(b) To make an election pursuant to this Section, the Borrower shall notify the Administrative Agent of such election by telephone or an Interest Election Request by the time that a Revolving Loan Notice of Borrowing would be required under **Section 2.03** if the Borrower were requesting a Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such telephonic notice shall be confirmed promptly by delivery to the Administrative Agent of an Interest Election Request signed by a Responsible Officer of the Borrower.

(c) Each telephonic notice and Interest Election Request shall specify the following information in compliance with **Section 2.03**:

(i) the Borrowing to which such telephonic notice or Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to **clauses (iii)** and **(iv)** below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such telephonic notice or Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing; and

(iv) if the resulting Borrowing is to be a Eurocurrency Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period."

If any such Interest Election Request requests a Eurocurrency Borrowing but does not specify an Interest Period, then the Borrower shall be deemed to have selected an Interest Period of one month's duration.

(d) Promptly following receipt of an Interest Election Request in accordance with this Section, the Administrative Agent shall advise each Lender of the applicable Class of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If the Borrower fails to deliver a timely Interest Election Request with respect to a Eurocurrency Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be continued as a Eurocurrency Borrowing with an Interest Period of the same duration as that of the previous Eurocurrency Borrowing. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the Borrower, then, so long as an Event of Default is continuing (i) no outstanding Borrowing may be converted to or continued as a Eurocurrency Borrowing and (ii) unless repaid, each Eurocurrency Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

SECTION 2.08. **Termination and Reduction of Commitments**.

(a) Unless previously terminated, (i) the Initial Term Commitments shall terminate at 5:00 p.m., New York City time, on the Effective Date and (ii) the Revolving Commitments shall terminate on the Revolving Maturity Date.

(b) The Borrower may at any time terminate, or from time to time reduce, the Commitments of any Class; **provided** that (i) each reduction of the Commitments of any Class shall be in an amount that is an integral multiple of $500,000 and not less than $1,000,000 and (ii) the Borrower shall not terminate or reduce the Revolving Commitments if, after giving effect to any concurrent prepayment of the Revolving Loans in accordance with **Section 2.11**, the aggregate Revolving Exposures would exceed the aggregate Revolving Commitments; **provided further**, that (1) the Borrower may allocate any termination or reduction of Commitments among Classes of Commitments at its direction (including, for the avoidance of doubt, to the Commitments with respect to any Class of Extended Revolving Commitments without any termination or reduction of the Commitments with respect to any existing Revolving Commitments of the same specified original Revolving Commitment Class) and (2) in connection with the establishment on any date of any Extended Revolving Commitments pursuant to **Section 2.21**, the original Revolving Commitments of any one or more Lenders providing any such Extended Revolving Commitments on such date shall be reduced in an amount equal to the amount of specified original Revolving Commitments so extended on such date (or, if agreed by the Borrower and the Lenders providing such Extended Revolving Commitments, by any greater amount so long as (a) a proportionate reduction of the existing Revolving Commitments of the same specified original Revolving Commitment Class has been offered to each Lender to whom the applicable Revolving Extension Request

has been made (which may be conditioned upon such Lender becoming an Extending Lender), and (b) the Borrower prepays the original Revolving Loans of such Class owed to such Lenders providing such Extended Revolving Commitments to the extent necessary to ensure that after giving pro forma effect to such repayment or reduction, the original Revolving Loans of such Class are held by the Lenders of such Class on a pro rata basis in accordance with their original Revolving Commitments of such Class after giving pro forma effect to such reduction) (**provided** that (x) after giving pro forma effect to any such reduction and to the repayment of any Loans made on such date, the aggregate amount of the revolving credit exposure of any such Lender does not exceed the Revolving Commitment thereof (such revolving credit exposure and Revolving Commitment being determined in each case, for the avoidance of doubt, exclusive of such Lender's Extended Revolving Commitment and any exposure in respect thereof) and (y) for the avoidance of doubt, any such repayment of Loans contemplated by the preceding clause shall be made in compliance with the requirements of **Section 2.18**) with respect to the ratable allocation of payments hereunder, with such allocation being determined after giving pro forma effect to any conversion or exchange pursuant to **Section 2.21** of Revolving Commitments and Revolving Loans into Extended Revolving Commitments and Extended Revolving Loans respectively, and prior to any reduction being made to the Commitment of any other Lender).

(c) The Borrower shall notify the Administrative Agent of any election to terminate or reduce the Commitments under **paragraph (b)** of this Section, not later than 11:00 a.m. New York City time, at least two Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any such notice, the Administrative Agent shall advise the Lenders of the contents thereof. Any termination or reduction of the Commitments of any Class shall be permanent. Each reduction of the Commitments of any Class shall be made ratably among the Lenders within such Class in accordance with their respective Commitments of such Class.

SECTION 2.09. **Repayment of Loans; Evidence of Debt**.

(a) The Borrower hereby unconditionally promises to pay (i) to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Revolving Loan of such Lender on the Revolving Maturity Date and (ii) to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Initial Term Loan of such Lender as provided in **Section 2.10**.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain the Register in accordance with **Section 9.04**.

(d) The entries made in the accounts maintained pursuant to **paragraph (b)** or **(c)** of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein absent manifest error; **provided** that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to pay any amounts due hereunder in accordance with the terms of this Agreement. In the event of any inconsistency between the entries made pursuant to **paragraphs (b)** and **(c)** of this Section, the accounts maintained by the Administrative Agent pursuant to **paragraph (c)** of this Section shall control.

(e) Any Lender may request through the Administrative Agent that Loans of any Class made by it be evidenced by a promissory note. In such event, the Borrower shall execute and deliver to such Lender a promissory note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in the form attached hereto as **Exhibit D** or **E**, as applicable.

SECTION 2.10. **Amortization of Term Loans**.

(a) Subject to adjustment pursuant to **Section 2.11(a)(ii)(F)** and **Section 2.11(f)**, the Borrower shall repay Initial Term Loans on the last Business Day of each March, June, September and December (commencing with September 30, 2021) in the principal amount of Initial Term Loans equal to (i) the aggregate outstanding principal amount of Initial Term Loans immediately after closing on the Effective Date multiplied by (ii) 0.25%.

(b) To the extent not previously paid, (i) all Initial Term Loans shall be due and payable on the Initial Term Maturity Date and (ii) all other Term Loans shall be due and payable on the applicable Term Loan Maturity Date.

SECTION 2.11. **Prepayment of Loans**.

(a) (i) The Borrower shall have the right at any time and from time to time to prepay any Borrowing at par in whole or in part, subject to the requirements of this Section; **provided** that in the event that, on or prior to the date that is 6 months following the Effective Date, the Borrower (x) makes any optional prepayment of Initial Term Loans incurred on the Effective Date in connection with any Repricing Transaction, or (y) effects any amendment of this Agreement resulting in a Repricing Transaction, the Borrower shall pay to the Administrative Agent, for the ratable account of each of the applicable Initial Term Lender, (I) in the case of **clause (x)**, a prepayment premium of 1.00% of the amount of the Initial Term Loans being prepaid and (II) in the case of **clause (y)**, a payment equal to 1.00% of the aggregate amount of the applicable Initial Term Loans outstanding immediately prior to such amendment. Each prepayment in respect of any Class of Term Loans pursuant to this **Section 2.11(a)(i)** shall be applied to reduce the installments of principal in such order as the Borrower may determine and may be applied to any Class of Term Loans as directed by the Borrower. For the avoidance of doubt, the Borrower may (i) prepay Term Loans of an original Term Loan Class pursuant to this **Section 2.11(a)(i)** without any requirement to prepay Extended Term Loans that were converted or exchanged from such original Term Loan Class and (ii) prepay Extended Term Loans pursuant to this **Section 2.11(a)(i)** without any requirement to prepay Term Loans of an original Term Loan Class that were converted or exchanged for such Extended Term Loans. In the event that the Borrower does not specify the order in which to apply prepayments to reduce installments of principal or as between Classes of Term Loans, the Borrower shall be deemed to have elected that such proceeds be applied to reduce the installments of principal in direct order of maturity and/or a pro-rata basis among Term Loan Classes. All prepayments under this **Section 2.11(a)(i)** shall also be subject to the provisions of **Sections 2.11(f)** and **2.11(g)**. At the Borrower's election in connection with any prepayment pursuant to this **Section 2.11(a)(i)**, such prepayment shall not be applied to any Loan of a Defaulting Lender.

(ii) Notwithstanding anything in any Loan Document to the contrary, so long as (x) no Event of Default has occurred and is continuing and (y) no proceeds of Revolving Loans are used for this purpose, the Borrower may prepay the outstanding Term Loans (which shall, for the avoidance of doubt, be automatically and permanently cancelled and the Register updated to reflect such cancellation (calculated on the par amount thereof) immediately upon acquisition by the Borrower) on the following basis:

(A) The Borrower shall have the right to make a voluntary prepayment of Term Loans at a discount to par (such prepayment, the "**Discounted Term Loan Prepayment**") pursuant to a Borrower Offer of Specified Discount Prepayment, Borrower Solicitation of Discount Range Prepayment Offers or Borrower Solicitation of Discounted Prepayment Offers, in each case made in accordance with this **Section 2.11(a)(ii)**; **provided** that the Borrower shall not initiate any action under this **Section 2.11(a)(ii)** in order to make a Discounted Term Loan Prepayment unless (I) at least five (5) Business Days shall have passed since the consummation of the most recent Discounted Term Loan Prepayment as a result of a prepayment made by the Borrower on the applicable Discounted Prepayment Effective Date; or (II) at least three (3) Business Days shall have passed since the date the Borrower was notified that no Term Lender was willing to accept any prepayment of any Term Loan at the Specified Discount, within the Discount Range or at any discount to par value, as applicable, or in the case of a Borrower Solicitation of Discounted Prepayment Offers, the date of the Borrower's election not to accept any Solicited Discounted Prepayment Offers.

(B) (1) Subject to the proviso to **subsection (A)** above, the Borrower may from time to time offer to make a Discounted Term Loan Prepayment by providing the Auction Agent with three (3) Business Days' notice in the form of a Specified Discount Prepayment Notice; **provided** that (I) any such offer shall be made available, at the sole discretion of the Borrower, to each Term Lender and/or each Lender with respect to any Class of Term Loans on an individual Class basis (but, for the avoidance of doubt, pro rata to all Lenders within such Class), (II) any such offer shall specify the aggregate principal amount offered to be prepaid (the "**Specified Discount Prepayment Amount**") with respect to each applicable Class, the Class or Classes of Term Loans subject to such offer and the specific percentage discount to par (the "**Specified Discount**") of such Term Loans to be prepaid (it being understood that different Specified Discounts and/or Specified Discount Prepayment Amounts may be offered with respect to different Classes of Term Loans and, in such an event, each such offer will be treated as a separate offer pursuant to the terms of this Section), (III) the Specified Discount Prepayment Amount shall be in an aggregate amount not less than $1,000,000 and whole increments of $500,000 in excess thereof and (IV) each such offer shall remain outstanding through the Specified Discount Prepayment Response Date. The Auction Agent will promptly provide each relevant Term Lender with a copy of such Specified Discount Prepayment Notice and a form of the Specified Discount Prepayment Response to be completed and returned by each such Lender to the Auction Agent (or its delegate) by no later than 5:00 p.m., New York time, on the third Business Day after the date of delivery of such notice to the relevant Term Lenders (the "**Specified Discount Prepayment Response Date**").

(2) Each relevant Term Lender receiving such offer shall notify the Auction Agent (or its delegate) by the Specified Discount Prepayment Response Date whether or not it agrees to accept a prepayment of any of its relevant then outstanding Term Loans at the Specified Discount and, if so (such accepting Term Lender, a "**Discount Prepayment Accepting Lender**"), the amount and the Classes of such Lender's Term Loans to be prepaid at such Specified Discount. Each acceptance of a Discounted Term Loan Prepayment by a Discount Prepayment Accepting Lender shall be irrevocable. Any Term Lender whose Specified Discount Prepayment Response is not received by the Auction Agent by the Specified Discount Prepayment Response Date shall be deemed to have declined to accept the applicable Borrower Offer of Specified Discount Prepayment.

(3) If there is at least one Discount Prepayment Accepting Lender, the Borrower will make prepayment of outstanding Term Loans pursuant to this **subsection (B)** to each Discount Prepayment Accepting Lender in accordance with the respective outstanding amount and Classes of Term Loans specified in such Lender's Specified Discount Prepayment Response given pursuant to **subsection (2)**; **provided** that, if the aggregate principal amount of Term Loans accepted for prepayment by all Discount Prepayment Accepting Lenders exceeds the Specified Discount Prepayment Amount, such prepayment shall be made pro-rata among the Discount Prepayment Accepting Lenders in accordance with the respective principal amounts accepted to be prepaid by each such Discount Prepayment Accepting Lender and the Auction Agent (in consultation with the Borrower and subject to rounding requirements of the Auction Agent made in its reasonable discretion) will calculate such proration (the "**Specified Discount Proration**"). The Auction Agent shall promptly, and in any case within three (3) Business Days following the Specified Discount Prepayment Response Date, notify (I) the Borrower of the respective Term Lenders' responses to such offer, the Discounted Prepayment Effective Date and the aggregate principal amount of the Discounted Term Loan Prepayment and the Classes to be prepaid, (II) each Term Lender of the Discounted Prepayment Effective Date, and the aggregate principal amount and the Classes of Term Loans to be prepaid at the Specified Discount on such date and (III) each Discount Prepayment Accepting Lender of the Specified Discount Proration, if any, and confirmation of the principal amount, Class and Type of Loans of such Lender to be prepaid at the Specified Discount on such date. Each determination by the Auction Agent of the amounts stated in the foregoing notices to the Borrower and Lenders shall be conclusive and binding for all purposes absent manifest error.

(C) (1) Subject to the proviso to **subsection (A)** above, the Borrower may from time to time solicit Discount Range Prepayment Offers by providing the Auction Agent with three (3) Business Days' notice in the form of a Discount Range Prepayment Notice; **provided** that (I) any such solicitation shall be extended, at the sole discretion of the Borrower, to each Term Lender and/or each Lender with respect to any Class of Loans on an individual Class basis (but, for the avoidance of doubt, pro rata to all Lenders within such Class), (II) any such notice shall specify the maximum aggregate principal amount of the relevant Term Loans (the "**Discount Range Prepayment Amount**"), the Class or Classes of Term Loans subject to such offer and the maximum and minimum percentage discounts to par (the "**Discount Range**") of the principal amount of such Term Loans with respect to each relevant Class of Term Loans willing to be prepaid by the Borrower (it being understood that different Discount Ranges and/or Discount Range Prepayment Amounts may be submitted with respect to different Classes of Term Loans and, in such an event, each such offer will be treated as a separate offer pursuant to the terms of this Section), (III) the Discount Range Prepayment Amount shall be in an aggregate amount not less than $1,000,000 and whole increments of $500,000 in excess thereof and (IV) each such solicitation by the Borrower shall remain outstanding through the Discount Range Prepayment Response Date. The Auction Agent will

promptly provide each relevant Term Lender with a copy of such Discount Range Prepayment Notice and a form of the Discount Range Prepayment Offer to be submitted by a responding relevant Term Lender to the Auction Agent (or its delegate) by no later than 5:00 p.m., New York City time, on the third Business Day after the date of delivery of such notice to the relevant Term Lenders (the "**Discount Range Prepayment Response Date**"). Each relevant Term Lender's Discount Range Prepayment Offer shall be irrevocable and shall specify a discount to par within the Discount Range (the "**Submitted Discount**") at which such Term Lender is willing to allow prepayment of any or all of its then outstanding Term Loans of the applicable Class or Classes and the maximum aggregate principal amount and Classes of such Lender's Term Loans (the "**Submitted Amount**") (it being understood that different Submitted Discounts may be specified in respect of different portions of the Submitted Amount) such Lender is willing to have prepaid at the Submitted Discount. Any Term Lender whose Discount Range Prepayment Offer is not received by the Auction Agent by the Discount Range Prepayment Response Date shall be deemed to have declined to accept a Discounted Term Loan Prepayment of any of its Term Loans at any discount to their par value within the Discount Range.

(2) The Auction Agent shall review all Discount Range Prepayment Offers received on or before the applicable Discount Range Prepayment Response Date and shall determine (in consultation with the Borrower and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) the Applicable Discount and Term Loans to be prepaid at such Applicable Discount in accordance with this **subsection (C)**. The Borrower agrees to accept on the Discount Range Prepayment Response Date all Discount Range Prepayment Offers received by Auction Agent by the Discount Range Prepayment Response Date, in the order from the Submitted Discount that is the largest discount to par to the Submitted Discount that is the smallest discount to par, up to and including the Submitted Discount that is the smallest discount to par within the Discount Range (such Submitted Discount that is the smallest discount to par within the Discount Range being referred to as the "**Applicable Discount**") which yields a Discounted Term Loan Prepayment in an aggregate principal amount equal to the lower of (I) the Discount Range Prepayment Amount and (II) the sum of all Submitted Amounts. Each Lender that has submitted a Discount Range Prepayment Offer to accept prepayment at a discount to par that is larger than or equal to the Applicable Discount shall be deemed to have irrevocably consented to prepayment of Term Loans equal to its Submitted Amount (subject to any required proration pursuant to the following **subsection (3)**) at the Applicable Discount (each such Lender, a "**Participating Lender**").

(3) If there is at least one Participating Lender, the Borrower will prepay the respective outstanding Term Loans of each Participating Lender in the aggregate principal amount and of the Classes specified in such Lender's Discount Range Prepayment Offer at the Applicable Discount; **provided** that if the Submitted Amount by all Participating Lenders offered at a discount to par greater than or equal to the Applicable Discount exceeds the Discount Range Prepayment Amount, prepayment of the principal amount of the relevant Term Loans for those

Participating Lenders whose Submitted Discount is a discount to par greater than or equal to the Applicable Discount (the "**Identified Participating Lenders**") shall be made pro rata among the Identified Participating Lenders in accordance with the Submitted Amount of each such Identified Participating Lender and the Auction Agent (in consultation with the Borrower and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) will calculate such proration (the "**Discount Range Proration**"). The Auction Agent shall promptly, and in any case within five (5) Business Days following the Discount Range Prepayment Response Date, notify (I) the Borrower of the respective Term Lenders' responses to such solicitation, the Discounted Prepayment Effective Date, the Applicable Discount, and the aggregate principal amount of the Discounted Term Loan Prepayment and the Classes to be prepaid, (II) each Term Lender of the Discounted Prepayment Effective Date, the Applicable Discount, and the aggregate principal amount and Classes of Term Loans to be prepaid at the Applicable Discount on such date, (III) each Participating Lender of the aggregate principal amount and Classes of such Lender to be prepaid at the Applicable Discount on such date, and (IV) if applicable, each Identified Participating Lender of the Discount Range Proration. Each determination by the Auction Agent of the amounts stated in the foregoing notices to the Borrower and Lenders shall be conclusive and binding for all purposes absent manifest error.

(D) (1) Subject to the proviso to **subsection (A)** above, the Borrower may from time to time solicit Solicited Discounted Prepayment Offers by providing the Auction Agent with three (3) Business Days' notice in the form of a Solicited Discounted Prepayment Notice; **provided** that (I) any such solicitation shall be extended, at the sole discretion of the Borrower, to each Term Lender and/or each Lender with respect to any Class of Term Loans on an individual Class basis (but, for the avoidance of doubt, pro rata to all Lenders within such Class), (II) any such notice shall specify the maximum aggregate dollar amount of the Term Loans (the "**Solicited Discounted Prepayment Amount**") and the Class or Classes of Term Loans the Borrower is willing to prepay at a discount (it being understood that different Solicited Discounted Prepayment Amounts may be offered with respect to different Classes of Term Loans and, in such an event, each such offer will be treated as a separate offer pursuant to the terms of this Section), (III) the Solicited Discounted Prepayment Amount shall be in an aggregate amount not less than $1,000,000 and whole increments of $500,000 in excess thereof and (IV) each such solicitation by the Borrower shall remain outstanding through the Solicited Discounted Prepayment Response Date. The Auction Agent will promptly provide each relevant Term Lender with a copy of such Solicited Discounted Prepayment Notice and a form of the Solicited Discounted Prepayment Offer to be submitted by a responding Term Lender to the Auction Agent (or its delegate) by no later than 5:00 p.m., New York City time on the third Business Day after the date of delivery of such notice to the relevant Term Lenders (the "**Solicited Discounted Prepayment Response Date**"). Each Term Lender's Solicited Discounted Prepayment Offer shall (x) be irrevocable, (y) remain outstanding until the Acceptance Date, and (z) specify both a discount to par (the "**Offered Discount**") at which such Term Lender is willing to allow prepayment of its then outstanding Term Loan and the maximum aggregate principal amount and Classes of such Term Loans (the "**Offered Amount**") such Lender is willing to have prepaid at the Offered Discount. Any Term Lender whose Solicited Discounted Prepayment Offer is not received by the Auction Agent by the Solicited Discounted Prepayment Response Date shall be deemed to have declined prepayment of any of its Term Loans at any discount.

(2) The Auction Agent shall promptly provide the Borrower with a copy of all Solicited Discounted Prepayment Offers received on or before the Solicited Discounted Prepayment Response Date. The Borrower shall review all such Solicited Discounted Prepayment Offers and select the largest of the Offered Discounts specified by the relevant responding Term Lenders in the Solicited Discounted Prepayment Offers that is acceptable to the Borrower (the "**Acceptable Discount**"), if any. If the Borrower elects to accept any Offered Discount as the Acceptable Discount, then as soon as practicable after the determination of the Acceptable Discount, but in no event later than by the third Business Day after the date of receipt by the Borrower from the Auction Agent of a copy of all Solicited Discounted Prepayment Offers pursuant to the first sentence of this **subsection (2)** (the "**Acceptance Date**"), the Borrower shall submit an Acceptance and Prepayment Notice to the Auction Agent setting forth the Acceptable Discount. If the Auction Agent shall fail to receive an Acceptance and Prepayment Notice from the Borrower by the Acceptance Date, the Borrower shall be deemed to have rejected all Solicited Discounted Prepayment Offers.

(3) Based upon the Acceptable Discount and the Solicited Discounted Prepayment Offers received by Auction Agent by the Solicited Discounted Prepayment Response Date, within three (3) Business Days after receipt of an Acceptance and Prepayment Notice (the "**Discounted Prepayment Determination Date**"), the Auction Agent will determine (in consultation with the Borrower and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) the aggregate principal amount and the Classes of Term Loans (the "**Acceptable Prepayment Amount**") to be prepaid by the Borrower at the Acceptable Discount in accordance with this **subsection (D)**. If the Borrower elects to accept any Acceptable Discount, then the Borrower agrees to accept all Solicited Discounted Prepayment Offers received by Auction Agent by the Solicited Discounted Prepayment Response Date, in the order from largest Offered Discount to smallest Offered Discount, up to and including the Acceptable Discount. Each Lender that has submitted a Solicited Discounted Prepayment Offer with an Offered Discount that is greater than or equal to the Acceptable Discount shall be deemed to have irrevocably consented to prepayment of Term Loans equal to its Offered Amount (subject to any required pro rata reduction pursuant to the following sentence) at the Acceptable Discount (each such Lender, a "**Qualifying Lender**"). The Borrower will prepay outstanding Term Loans pursuant to this **subsection (D)** to each Qualifying Lender in the aggregate principal amount and of the Classes specified in such Lender's Solicited Discounted Prepayment Offer at the Acceptable Discount; **provided** that if the aggregate Offered Amount by all Qualifying Lenders whose Offered Discount is greater than or equal to the Acceptable Discount exceeds the Solicited Discounted Prepayment

Amount, prepayment of the principal amount of the Term Loans for those Qualifying Lenders whose Offered Discount is greater than or equal to the Acceptable Discount (the "**Identified Qualifying Lenders**") shall be made pro rata among the Identified Qualifying Lenders in accordance with the Offered Amount of each such Identified Qualifying Lender and the Auction Agent (in consultation with the Borrower and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) will calculate such proration (the "**Solicited Discount Proration**"). On or prior to the Discounted Prepayment Determination Date, the Auction Agent shall promptly notify (I) the Borrower of the Discounted Prepayment Effective Date and Acceptable Prepayment Amount comprising the Discounted Term Loan Prepayment and the Classes to be prepaid, (II) each Term Lender of the Discounted Prepayment Effective Date, the Acceptable Discount, and the Acceptable Prepayment Amount of all Term Loans and the Classes to be prepaid at the Applicable Discount on such date, (III) each Qualifying Lender of the aggregate principal amount and the Classes of such Lender to be prepaid at the Acceptable Discount on such date, and (IV) if applicable, each Identified Qualifying Lender of the Solicited Discount Proration. Each determination by the Auction Agent of the amounts stated in the foregoing notices to such Borrower and Lenders shall be conclusive and binding for all purposes absent manifest error.

(E) In connection with any Discounted Term Loan Prepayment, the Borrower and the Lenders acknowledge and agree that the Auction Agent may require as a condition to any Discounted Term Loan Prepayment, the payment of such fees and expenses from the Borrower as may be separately agreed between the Borrower and the Auction Agent in connection therewith.

(F) If any Term Loan is prepaid in accordance with **paragraphs (B)** through **(D)** above, the Borrower shall prepay such Term Loans on the Discounted Prepayment Effective Date. The Borrower shall make such prepayment to the Administrative Agent, for the account of the Discount Prepayment Accepting Lenders, Participating Lenders, or Qualifying Lenders, as applicable, at the Administrative Agent's office in Same Day Funds not later than 12:00 noon (New York City time) on the Discounted Prepayment Effective Date and all such prepayments shall be applied to the remaining principal installments of the relevant Class of Term Loans on a pro rata basis across such installments (including the installment due on the Term Loan Maturity Date of such Class). The Term Loans so prepaid shall be accompanied by all accrued and unpaid interest on the par principal amount so prepaid up to, but not including, the Discounted Prepayment Effective Date. Each prepayment of the outstanding Term Loans pursuant to this **Section 2.11(a)(ii)** shall be paid to the Discount Prepayment Accepting Lenders, Participating Lenders, or Qualifying Lenders, as applicable. The aggregate principal amount of the Classes and installments of the relevant Term Loans outstanding shall be deemed reduced by the full par value of the aggregate principal amount of the Classes of Term Loans prepaid on the Discounted Prepayment Effective Date in any Discounted Term Loan Prepayment.

(G) To the extent not expressly provided for herein, each Discounted Term Loan Prepayment shall be consummated pursuant to procedures consistent with the provisions in this **Section 2.11(a)(ii)**, established by the Auction Agent acting in its reasonable discretion and as reasonably agreed by the Borrower.

(H) Notwithstanding anything in any Loan Document to the contrary, for purposes of this **Section 2.11(a)(ii)**, each notice or other communication required to be delivered or otherwise provided to the Auction Agent (or its delegate) shall be deemed to have been given upon Auction Agent's (or its delegate's) actual receipt during normal business hours of such notice or communication; **provided** that any notice or communication actually received outside of normal business hours shall be deemed to have been given as of the opening of business on the next Business Day.

(I) Each of the Borrower and the Lenders acknowledges and agrees that the Auction Agent may perform any and all of its duties under this **Section 2.11(a)(ii)** by itself or through any Affiliate of the Auction Agent and expressly consents to any such delegation of duties by the Auction Agent to such Affiliate and the performance of such delegated duties by such Affiliate. The exculpatory provisions pursuant to this Agreement shall apply to each Affiliate of the Auction Agent and its respective activities in connection with any Discounted Term Loan Prepayment provided for in this **Section 2.11(a)(ii)** as well as activities of the Auction Agent.

(J) The Borrower shall have the right, by written notice to the Auction Agent, to revoke in full (but not in part) its offer to make a Discounted Term Loan Prepayment and rescind the applicable Specified Discount Prepayment Notice, Discount Range Prepayment Notice or Solicited Discounted Prepayment Notice therefor at its discretion at any time on or prior to the applicable Specified Discount Prepayment Response Date (and if such offer is revoked pursuant to the preceding clauses, any failure by such Borrower to make any prepayment to a Term Lender, as applicable, pursuant to this **Section 2.11(a)(ii)** shall not constitute a Default or Event of Default under **Section 7.01** or otherwise).

(b) On each occasion that a Prepayment Event occurs, the Borrower shall, within five Business Days after the receipt of Net Cash Proceeds therefrom, offer to prepay (or, in the case of a Debt Incurrence Prepayment Event, prepay), in accordance with **Section 2.11(d)**, Term Loans in an aggregate amount equal to 100% (the "**Prepayment Percentage**") of the amount of such Net Cash Proceeds; **provided**, that, in the case of Net Cash Proceeds from an Asset Sale Prepayment Event or a Casualty Prepayment Event, the Borrower may use a portion of such Net Cash Proceeds to prepay, redeem, defease or repurchase any Indebtedness secured by a Lien on Collateral ranking equal in priority to the Liens on such Collateral securing the Secured Obligations (but without regard to the control of remedies), to the extent that the applicable documentation with respect to such Indebtedness requires the issuer or borrower under such Indebtedness to prepay or make an offer to prepay, redeem, repurchase, acquire or make similar payment or defease such Indebtedness with the proceeds of such Prepayment Event, in each case in an amount not to exceed the product of (x) the amount of such Net Cash Proceeds multiplied by (y) a fraction, the numerator of which is the outstanding principal amount of such Indebtedness constituting First Lien Obligations and with respect to which such a requirement to prepay or make an offer to prepay, redeem, repurchase, acquire or make similar payment or defease exists and the denominator of which is the sum of the outstanding principal amount of such Indebtedness and the outstanding principal amount of Term Loans.

(c) Following the end of each Fiscal Year of the Borrower, commencing with the first Excess Cash Flow Period, the Borrower shall offer to prepay Term Loans in accordance with **Section 2.11(d)** in an aggregate amount of Term Loans equal to (x) the Required Percentage of Excess Cash Flow for such Excess Cash Flow Period, minus (y) at the Borrower's option, (A) the aggregate principal amount of (1) Term Loans voluntarily prepaid pursuant to Section 2.11(a) and (2) any Senior Secured Notes or other secured Permitted Additional Debt or secured Credit Agreement Refinancing Indebtedness voluntarily prepaid, repurchased, defeased, acquired or redeemed, (B) the aggregate principal amount of Revolving Loans and Extended Revolving Loans and other revolving loans that are effective in reliance on **Section 6.01(b)** or **Section 6.01(o)** voluntarily prepaid pursuant to **Section 2.11** to the extent accompanied by a permanent reduction of such Revolving Commitments, Incremental Revolving Commitment Increases, Incremental Revolving Commitments, Extended Revolving Commitments or other revolving commitments, as applicable, in an equal amount pursuant to **Section 2.08** (or the equivalent provision governing such revolving credit facility, (C) the aggregate principal amount of Term Loans assigned to any Purchasing Borrower Party pursuant to **Section 9.04(g)**, secured Permitted Additional Debt or secured Credit Agreement Refinancing Indebtedness, in each case assigned to any Purchasing Borrower Party (or any similar term as defined in the documentation governing such secured Permitted Additional Debt or secured Credit Agreement Refinancing Indebtedness) pursuant to the documentation governing such secured Permitted Additional Debt or secured Credit Agreement Refinancing Indebtedness (or, in each case, in accordance with the corresponding provisions of the documentation governing any Indebtedness representing secured Permitted Refinancing Indebtedness in respect thereof); but only to the extent that such Term Loans, Permitted Additional Debt, Credit Agreement Refinancing Indebtedness or such Permitted Refinancing Indebtedness in respect thereof, as applicable, have been cancelled, except in the case of clauses (A)-(C) to the extent financed by the Incurrence of long term Indebtedness (including, for the avoidance of doubt, any such Indebtedness Incurred under a revolving credit facility Incurred as Permitted Additional Debt or otherwise Incurred under **Section 2.20**) by, or the issuance of Equity Interests by, or the making of capital contributions to, the Borrower or the Restricted Subsidiaries or using the proceeds of any Disposition outside the ordinary course of business and (D) without duplication, the aggregate amount of Additional ECF Reduction Amounts, in each case during such fiscal year or after year-end and prior to the time such prepayment pursuant to this **Section 2.11(c)** is due (any payments described in the foregoing clauses (A) through (D) of this clause (y) made after the end of the applicable fiscal year but prior to the time such prepayment pursuant to this **Section 2.11(c)** is due in respect of such fiscal year, an "**After Year End Payment**"; **provided**, **further**, that, in the case that Excess Cash Flow is required to be offered to prepay any Term Loans, the Borrower may use cash in an amount not to exceed the amount of such Excess Cash Flow required to be offered to prepay the Term Loans to prepay, redeem, defease, acquire, repurchase or make a similar payment to any Permitted Equal Priority Refinancing Debt or any Permitted Additional Debt secured by a Lien on the Collateral that ranks equal in priority to the Liens on such Collateral securing the Secured Obligations (but without regard to the control of remedies), in each case the documentation with respect to which requires the issuer or borrower under such Indebtedness to prepay or make an offer to prepay, redeem, repurchase, defease, acquire or satisfy and discharge such Indebtedness with a percentage of Excess Cash Flow, in each case in an amount not to exceed the product of (1) the amount of such Excess Cash Flow required to be offered to prepay the Term Loans multiplied by (2) a fraction, the numerator of which is the outstanding principal amount of the Permitted Equal Priority Refinancing Debt and Permitted Additional Debt secured by a Lien on the Collateral that ranks equal in priority to the Liens on such Collateral securing the Secured Obligations (but without regard to the control of remedies) and with respect to which such a requirement to prepay or make an offer to prepay, redeem, repurchase, defease, acquire or satisfy and discharge exists and the denominator of which is the sum of the outstanding principal amount of such Permitted Equal Priority Refinancing Debt and Permitted Additional Debt and the outstanding principal amount of Term Loans. Following the making of any After Year End Payment, the Consolidated First Lien Leverage Ratio shall be recalculated giving pro forma effect to such After Year End Payment as if such payment were made during the applicable fiscal year and the percentage in this **Section 2.11(c)** for purposes of making such Excess Cash Flow prepayment shall be determined by reference to such recalculated Consolidated First Lien Leverage Ratio; **provided further** that if the applicable amount of any prepayment of Term Loans in accordance with the foregoing is less than **$25,000,000**, the amount payable under this **Section 2.11(c)** shall be deemed to be $0.

(d) (i) Subject to **clause (ii)** of this **Section 2.11(d)** and the provisos to each of **Section 2.11(b)** and **(c)**, (A) each prepayment of Term Loans required by **Sections 2.11(b)** and **(c)** (other than in connection with a Debt Incurrence Prepayment Event referred to in the parenthetical in the definition of such term) shall be allocated to the Classes of Term Loans outstanding, pro rata, based upon the applicable remaining installments of principal due in respect of each such Class of Term Loans, shall be applied pro rata to Lenders within each Class, based upon the outstanding principal amounts owing to each such Lender under each such Class of Term Loans and shall be applied to reduce such scheduled installments of principal within each such Class in accordance with **Section 2.11(f)** and (B) each prepayment of Term Loans required by **Section 2.11(b)** in connection with a Debt Incurrence Prepayment Event referred to in the parenthetical in the definition of such term shall be allocated to any Class of Term Loans outstanding as directed by the Borrower, shall be applied pro rata to Lenders within each Class, based upon the outstanding principal amounts owing to each such Lender under each such Class of Term Loans and shall be applied to reduce such scheduled installments of principal within each such Class in accordance with **Section 2.11(f)**; **provided** that, with respect to the allocation of such prepayments under **clause (A)** above only between an original Term Loan Class and Extended Term Loans of the same original Class, the Borrower may allocate such prepayments as the Borrower may specify, subject to the limitation that the Borrower shall not allocate to Extended Term Loans of any such Class any such mandatory prepayment under such **clause (A)** unless such prepayment is accompanied by at least a pro rata prepayment, based upon the applicable remaining installments of principal due in respect thereof, of the Term Loans of the original existing Term Loan Class, if any, from which such Extended Term Loans were converted or exchanged (or such Term Loans of the original existing Term Loan Class have otherwise been repaid in full).

(ii) With respect to each such prepayment required by **Section 2.11(b)** and **(c)** (other than any Debt Incurrence Prepayment Event), (A) the Borrower will, not later than the date specified in such Sections for offering to make such prepayment, give the Administrative Agent telephonic notice (promptly confirmed by delivery to the Administrative Agent of a Notice of Prepayment signed by a Responsible Officer of the Borrower) requesting that the Administrative Agent provide notice of such prepayment to each Lender of Term Loans and the Administrative Agent will promptly provide such notice to each Lender of Term Loans, (B) other than if such prepayment arises due to a Debt Incurrence Prepayment Event, each Lender of Term Loans will have the right to refuse any such prepayment by giving written notice of such refusal to the Administrative Agent and the Borrower within five Business Days after such Lender's receipt of notice from the Administrative Agent of such prepayment (and the Borrower shall not prepay any Term Loans until the date that is specified in **clause (C)** below) (such amounts, the "**Declined Amounts**"), (C) the Borrower will make all such prepayments not so refused upon the tenth Business Day after the Lender received first notice of prepayment from the Administrative Agent and (D) thereafter, Declined Amounts shall be retained by the Borrower.

(e) The Borrower shall notify the Administrative Agent by telephone (immediately confirmed by delivery to the Administrative Agent of a Notice of Prepayment signed by a Responsible Officer of the Borrower) of any prepayment under **Section 2.11(a)(i)** (i) in the case of prepayment of a Eurocurrency Borrowing, not later than 12:00 noon, New York City time, three Business Days before the date of prepayment, or (ii) in the case of prepayment of an ABR Borrowing, not later than 12:00 noon, New York City time, on the date of prepayment, which shall be a Business Day. Each such telephonic notice and Notice of Prepayment shall specify the prepayment date and principal amount of each Borrowing or portion thereof to be prepaid. Promptly following receipt of any such Notice of Prepayment, the Administrative Agent shall advise the Lenders of the contents thereof. Each partial

prepayment of any Borrowing shall be in an amount that would be permitted in the case of an advance of a Borrowing of the same Type as provided in **Section 2.02**, except as necessary to apply fully the required amount of a mandatory prepayment. Each prepayment of a Borrowing shall be applied ratably to the Loans included in the prepaid Borrowing. Prepayments shall be accompanied by accrued interest to the extent required by **Section 2.13**.

(f) Any prepayment of a Term Loan Borrowing of any Class (i) pursuant to **Section 2.11(a)(i)** or pursuant to a Debt Incurrence Prepayment Event shall be applied to reduce the subsequent scheduled and outstanding repayments of the Term Loan Borrowings of such Class to be made pursuant to this Section as directed by the Borrower (or, absent such direction, in direct order of maturity) and the Borrower may designate the Types of Loans that are to be prepaid and the specific Borrowing(s) pursuant to which made and (ii) pursuant to **Section 2.11(b)** (other than a Debt Incurrence Prepayment Event) or **Section 2.11(c)** shall be applied, subject to **Section 2.11(d)**, to reduce the subsequent scheduled and outstanding repayments of the Term Loan Borrowings of such Class to be made pursuant to this Section in direct order of maturity and the Borrower may designate the Types of Loans that are to be prepaid and the specific Borrowing(s) pursuant to which made.

(g) (i) With respect to each prepayment of Revolving Loans, Extended Revolving Loans and Incremental Revolving Loans elected by the Borrower pursuant to **Section 2.11(a)(i)**, the Borrower may designate (A) the Class and Types of Loans that are to be prepaid and the specific Borrowing(s) pursuant to which made and (B) the Revolving Loans, Extended Revolving Loans or Incremental Revolving Loans to be prepaid; **provided** that (x) each prepayment of any Loans made pursuant to a Borrowing shall be applied pro rata among such Loans of such Class (except that any prepayment made in connection with a reduction of the Commitments of such Class pursuant to **Section 2.08(b)** shall be applied pro rata based on the amount of the reduction in the Commitments of such Class of each applicable Lender), and (y) notwithstanding the provisions of the preceding **clause (x)**, at the option of the Borrower, no prepayment made pursuant to **Section 2.11(a)(i)** of Revolving Loans, Extended Revolving Loans or Incremental Revolving Loans shall be applied to the Loans of any Defaulting Lender.

(ii) With respect to each mandatory reduction and termination of Revolving Commitments, Incremental Revolving Commitments or Extended Revolving Commitments required by **clause (ii)** of the proviso to **Section 2.20(b)**, the Borrower may designate (A) the Classes of Commitments to be reduced and terminated and (B) the corresponding Classes of Loans to be prepaid; **provided** that (x) any such reduction and termination shall apply proportionately and permanently to reduce the Commitments of each of the Lenders within any such Class, and (y) after giving effect to such termination or reduction and to any prepayments of Loans or cancellation or cash collateralization of letters of credit made on the date of each such reduction and termination in accordance with this Agreement, the aggregate amount of such Lenders' credit exposures shall not exceed the remaining Commitments of such Lenders' in respect of the Class reduced and terminated. In connection with any such termination or reduction, to the extent necessary, the participations hereunder in outstanding Letters of Credit may be required to be reallocated and related loans outstanding prepaid and then reborrowed, in each case in the manner contemplated by the last three sentences of **Section 2.20(c)** (as modified to account for a termination or reduction, as opposed to an increase, of such Commitment).

(h) Notwithstanding any other provisions in **Sections 2.11(b)** and **(c)**, (A) to the extent that any or all of the Net Cash Proceeds of any Asset Sale Prepayment Event by a Non-Guarantor giving rise to a prepayment event pursuant to **Section 2.11(b)** (a "**Non-Guarantor Disposition**"), the Net Cash Proceeds of any Casualty Prepayment Event from a Non-Guarantor giving rise to a prepayment event pursuant to **Section 2.11(b)** (a "**Non-Guarantor Casualty Prepayment Event**"), or any portion Excess Cash Flow attributable to the operations of a Non-Guarantor are prohibited or delayed by

applicable local law from being repatriated to the United States or from being distributed to a Loan Party, the portion of such Net Cash Proceeds or Excess Cash Flow so affected will not be required to be applied to prepay Term Loans at the times provided in this **Section 2.11** but may be retained by the applicable Non-Guarantor so long, but only so long, as the applicable local law will not permit repatriation to the United States or distribution to a Loan Party (the Borrower hereby agreeing to use commercially reasonable efforts to cause the applicable Non-Guarantor to promptly take all actions reasonably required by the applicable local law to permit such repatriation or distribution), and once such repatriation or distribution of any of such affected Net Cash Proceeds or Excess Cash Flow is permitted under the applicable local law, such repatriation or distribution will be immediately effected and such repatriated Net Cash Proceeds or Excess Cash Flow will be promptly (and in any event not later than two (2) Business Days after such repatriation or distribution) applied (net of additional Taxes payable or reserved against as a result thereof) to the repayment of the Term Loans pursuant to this **Section 2.11** to the extent provided herein and (B) to the extent that the Borrower has determined in good faith that repatriation or distribution of any of or all the Net Cash Proceeds of any Non-Guarantor Disposition or any Non-Guarantor Casualty Prepayment Event or any portion of Excess Cash Flow attributable to the operations of a Non-Guarantor would have material adverse tax consequences (taking into account any foreign Tax credit or benefit actually realized in connection with such repatriation) with respect to such Net Cash Proceeds or such portion of Excess Cash Flow, the Net Cash Proceeds or portion of Excess Cash Flow so affected will not be required to be applied to repay Term Loans at the times provided in this **Section 2.11** but may be retained by the applicable Non-Guarantor unless and until such material adverse tax consequences would no longer result from such repatriation or distribution.

SECTION 2.12. **Fees**.

(a) The Borrower agrees to pay to the Administrative Agent in Dollars for the account of each Revolving Lender (other than any Defaulting Lender) a commitment fee (the "**Revolving Commitment Fee**"), which shall accrue at the Applicable Rate with respect to Revolving Commitment Fees on the actual daily unused amount of the Revolving Commitment of such Lender during the period from and including the Effective Date to but excluding the date on which the Revolving Commitments terminate. Accrued Revolving Commitment Fees shall be payable in arrears on the third Business Day following the last day of March, June, September and December of each year and on the date on which the Revolving Commitments terminate, commencing on July 6, 2021. All Revolving Commitment Fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). For purposes of computing Revolving Commitment Fees, a Revolving Commitment of a Lender shall be deemed to be used to the extent of the outstanding Revolving Loans and LC Exposure of such Lender.

(b) The Borrower agrees to pay (i) to the Administrative Agent in Dollars for the account of each Revolving Lender (other than any Defaulting Lender) a participation fee with respect to its participations in Letters of Credit, which shall accrue at the Applicable Rate used to determine the interest rate applicable to Eurocurrency Revolving Loans on the daily amount of such Lender's LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to and including the later of the date on which such Lender's Revolving Commitment terminates and the date on which such Lender ceases to have any LC Exposure, and (ii) to each Issuing Bank in Dollars a fronting fee, which shall accrue at the rate of 0.125% per annum (or such other amount as may be separately agreed between the Borrower and each applicable Issuing Bank) on the daily amount of the LC Exposure attributable to Letters of Credit issued by such Issuing Bank (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to and including the later of the date of termination of the Revolving Commitments and the date on which there ceases to be any LC Exposure, as well as such Issuing Bank's standard costs with respect to the issuance, amendment, renewal or extension of any Letter

of Credit or processing of drawings thereunder. Participation fees and fronting fees accrued through the last Business Day of March, June, September and December of each year shall be payable on the third Business Day following such last day, commencing on July 6, 2021; **provided** that all such fees shall be payable on the date on which the Revolving Commitments terminate and any such fees accruing after the date on which the Revolving Commitments terminate shall be payable on demand. Any other fees payable to an Issuing Bank pursuant to this paragraph shall be payable within 10 days after receipt of a reasonably detailed invoice therefor. All participation fees and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed.

(c) The Borrower agrees to pay on the Effective Date to each Term Lender party to this Agreement as an Initial Term Lender on the Effective Date, an upfront payment in an amount equal to 0.50% of the stated principal amount of such Term Lender's Initial Term Loan. Such payment shall be made to each Term Lender out of the proceeds of such Term Lender's Initial Term Loan as and when funded on the Effective Date. Such upfront payments will be in all respects fully earned, due and payable upon the funding of the Initial Term Loans on the Effective Date.

(d) The Borrower agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Borrower and the Administrative Agent.

(e) Notwithstanding the foregoing, and subject to **Section 2.22**, the Borrower shall not be obligated to pay any amounts to any Defaulting Lender pursuant to this **Section 2.12**, nor shall any such amounts accrue.

SECTION 2.13. **Interest**.

(a) The Loans comprising each ABR Borrowing shall bear interest at the Alternate Base Rate plus the Applicable Rate.

(b) The Loans comprising each Eurocurrency Borrowing shall bear interest at the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(c) Notwithstanding the foregoing, during the continuance of any Event of Default pursuant to **Section 7.01(a)**, **(b)**, **(h)** or **(i)**, if any principal of or interest on any Loan or any fee or other amount payable by the Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, 2.00% per annum plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section or (ii) in the case of any other amount, 2.00% per annum plus the rate applicable to ABR Revolving Loans as provided in **paragraph (a)** of this Section; **provided** that no amount shall be payable pursuant to this **Section 2.13(c)** to a Defaulting Lender so long as such Lender shall be a Defaulting Lender; **provided further** that no amounts shall accrue pursuant to this **Section 2.13(c)** on any overdue amount, reimbursement obligation in respect of any LC Disbursement or other amount payable to a Defaulting Lender so long as such Lender shall be a Defaulting Lender.

(d) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and, in the case of Revolving Loans, upon termination of the Revolving Commitments; **provided** that (i) interest accrued pursuant to **paragraph (c)** of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Revolving Loan prior to the end of the Revolving Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Eurocurrency Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(e) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the Alternate Base Rate when such rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate or Adjusted LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

SECTION 2.14. **Alternate Rate of Interest**. (a) If at least two Business Days prior to the commencement of any Interest Period for a Eurocurrency Borrowing:

(i) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate for such Interest Period; or

(ii) the Administrative Agent is advised by the Required Lenders that the Adjusted LIBO Rate for such Interest Period will not adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans included in such Borrowing for such Interest Period;

the Administrative Agent shall give notice thereof to the Borrower and the Lenders by telephone or facsimile as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, which the Administrative Agent agrees to do promptly thereafter, (i) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurocurrency Borrowing shall be ineffective and (ii) if any Notice of Borrowing requests a Eurocurrency Borrowing in Dollars, then such Borrowing shall be made as an ABR Borrowing; **provided**, **however**, that, in each case, the Borrower may revoke any Notice of Borrowing that is pending when such notice is received.

(b) Notwithstanding anything to the contrary in this Agreement or any other Loan Documents, if the Borrower and Administrative Agent determine in good faith, or the Borrower and Required Lenders notify the Administrative Agent that the Borrower and Required Lenders (as applicable) have determined, that:

(i) adequate and reasonable means do not exist for ascertaining the LIBO Rate for any Interest Period hereunder or any other tenors of the LIBO Rate, including, without limitation, because the LIBO Screen Rate is not available or published on a current basis, and such circumstances are unlikely to be temporary; or

(ii) the administrator of the LIBO Screen Rate or a Governmental Authority having jurisdiction over the Administrative Agent or such administrator ceased permanently or indefinitely to use the LIBO Rate or the LIBO Screen Rate for similarly situated borrowers under Dollar-denominated syndicated credit facilities as the Facilities; **provided** that, at such time, there is no successor administrator that will continue to provide the LIBO Rate after such specific date (such specific date, the "**Scheduled Unavailability Date**"); or

(iii) the administrator of the LIBO Screen Rate or a Governmental Authority having jurisdiction over such administrator has ceased to provide the LIBO Rate or has made a public statement announcing that all Interest Periods and other tenors of the LIBO Rate are no longer representative; or

(iv) at least five (5) currently outstanding syndicated loans for similarly situated borrowers under syndicated credit facilitates in the same currencies as the Facilities are being executed or amended (as applicable) to incorporate or adopt a new benchmark interest rate to replace the LIBO Rate, each available for review (including by way of availability through posting on DebtDomain, Intralinks, Debt X, SyndTrak Online or by similar electronic means) and identified by each of the Administrative Agent and the Borrower,

then, reasonably promptly after such determination by the Borrower and the Administrative Agent or receipt by the Administrative Agent of such notice, as applicable, the Administrative Agent and the Borrower may amend this Agreement solely for the purpose of replacing the LIBO Rate in accordance with this **Section 2.14(b)** with (x) one or more SOFR-Based Rates or (y) another alternate benchmark rate established by the Borrower and the Administrative Agent, giving due consideration to any evolving or then existing convention for similarly situated borrowers under Dollar-denominated syndicated credit facilities as the Facilities for such alternative benchmarks and, in each case, including any mathematical or other adjustments to such benchmark giving due consideration to any evolving or then existing convention for similarly situated borrowers under Dollar-denominated syndicated credit facilities as the Facilities for such benchmarks, which adjustment or method for calculating such adjustment shall be published on an information service as reasonably selected by the Administrative Agent (in consultation with the Borrower) from time to time in its reasonable discretion and may be periodically updated with the consent of the Borrower (the "**Adjustment**"; and any such proposed rate, a "**LIBOR Successor Rate**"), and any such amendment shall become effective at 5:00 p.m. on the fifth Business Day after the Administrative Agent shall have posted such proposed amendment to all Lenders and the Borrower unless, prior to such time, Lenders comprising the Required Lenders have delivered to the Administrative Agent written notice that such Required Lenders (A) in the case of an amendment to replace the LIBO Rate with a rate described in clause (x), object to the Adjustment; or (B) in the case of an amendment to replace the LIBO Rate with a rate described in clause (y), object to such amendment; **provided** that, for the avoidance of doubt, in the case of clause (A), the Required Lenders shall not be entitled to object to any SOFR-Based Rate contained in any such amendment. Such LIBOR Successor Rate shall be applied in a manner consistent with market practice as reasonably determined by the Administrative Agent; **provided** that, to the extent such market practice is not administratively feasible for the Administrative Agent, such LIBOR Successor Rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent in consultation with the Borrower.

If no LIBOR Successor Rate has been determined and the circumstances under clause (i) above exist or the Scheduled Unavailability Date has occurred (as applicable), the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Eurocurrency Loans shall be suspended, (to the extent of the affected Eurocurrency Loans or Interest Periods), and (y) the Adjusted LIBO Rate component shall no longer be utilized in determining the Alternate Base Rate. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurocurrency Loans (to the extent of the affected Eurocurrency Loans or Interest Periods) or, failing that, will be deemed to have converted such request into a request for a Borrowing of ABR Loans (subject to the foregoing clause (y)) in the amount specified therein.

Notwithstanding anything else herein, any definition of LIBOR Successor Rate shall provide that in no event shall such LIBOR Successor Rate be less than (x) in the case of Initial Term Loans, 0.50% per annum for purposes of this Agreement and (y) otherwise, zero for purposes of this Agreement.

In connection with the implementation of a LIBOR Successor Rate, the Administrative Agent with the consent of the Borrower will have the right to make LIBOR Successor Rate Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such LIBOR Successor Rate Conforming Changes will become effective without any further action or consent of any other Lender party to this Agreement; provided that, with respect to any such amendment effected, the Administrative Agent shall post each such amendment implementing such LIBOR Successor Conforming Changes to the Lenders (with a copy to the Borrower) reasonably promptly after such amendment becomes effective.

SECTION 2.15. **Increased Costs**.

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender or any Issuing Bank (except any such reserve requirement reflected in the Adjusted LIBO Rate payable pursuant to **Section 2.13(b)**);

(ii) subject any Lender, Issuing Bank or the Administrative Agent to any Tax (other than any Indemnified Taxes and any Excluded Taxes) on its loans, loan principal, letters of credit, commitments or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender or any Issuing Bank or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Eurocurrency Loans or ABR Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender or the Administrative Agent of making or maintaining any Eurocurrency Loan or ABR Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to such Lender, Issuing Bank or the Administrative Agent of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or issue any Letter of Credit) or to reduce the amount of any sum received or receivable by such Lender, such Issuing Bank or the Administrative Agent hereunder (whether of principal, interest or otherwise), then, from time to time upon request of such Lender, such Issuing Bank or the Administrative Agent, the Borrower will pay to such Lender, such Issuing Bank or the Administrative Agent, as the case may be, such additional amount or amounts as will compensate such Lender, such Issuing Bank or the Administrative Agent, as the case may be, for such increased costs actually incurred or reduction actually suffered.

(b) If any Change in Law regarding capital or liquidity requirements has the effect of reducing the rate of return on a Lender's or Issuing Bank's capital or on the capital of such Lender's or Issuing Bank's holding company, if any, as a consequence of this Agreement or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such Issuing Bank to a level below that which such Lender or Issuing Bank or such Lender's or Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or Issuing Bank's policies and the policies of such Lender's or Issuing Bank's holding company with respect to capital adequacy and liquidity), then, from time to time upon request of such Lender or Issuing Bank, the Borrower will pay to such Lender or Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or Issuing Bank or such Lender's or Issuing Bank's holding company for any such reduction actually suffered.

(c) A certificate of a Lender, an Issuing Bank or the Administrative Agent setting forth the amount or amounts necessary to compensate such Lender or Issuing Bank or its holding company or the Administrative Agent, as the case may be, in reasonable detail as specified in **paragraph (a)** or **(b)** of this Section delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender, such Issuing Bank or the Administrative Agent, as the case may be, the amount shown as due on any such certificate within 15 days after receipt thereof.

(d) Notwithstanding the foregoing, no Lender or Issuing Bank shall be entitled to seek compensation under this **Section 2.15** based on the occurrence of a Change in Law arising solely from the Dodd-Frank Wall Street Reform and Consumer Protection Act, Basel III or, in each case, any requests, rules, guidelines or directives thereunder or issued in connection therewith, unless such Lender or Issuing Bank, as applicable, is generally seeking compensation from other borrowers in the U.S. leveraged loan market with respect to its similarly affected commitments, loans and/or participations under agreements with such borrowers having provisions similar to this **Section 2.15**.

(e) Failure or delay on the part of any Lender, Issuing Bank or the Administrative Agent to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's, such Issuing Bank's or the Administrative Agent's right to demand such compensation; **provided** that the Borrower shall not be required to compensate a Lender, an Issuing Bank or the Administrative Agent pursuant to this Section for any increased costs or expenses incurred or reductions suffered more than 180 days prior to the date that such Lender, such Issuing Bank or the Administrative Agent, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or expenses or reductions and of such Lender's, such Issuing Bank's or the Administrative Agent's intention to claim compensation therefor; **provided**, **further**, that, if the Change in Law giving rise to such increased costs or expenses or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

SECTION 2.16. **Break Funding Payments**. In the event of (a) the payment of any principal of any Eurocurrency Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Revolving Loan or Term Loan on the date specified in any notice delivered pursuant hereto or (d) the assignment of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to **Section 2.19** or **Section 9.02(c)**, then, in any such event, the Borrower shall, after receipt of a written request by any Lender affected by any such event (which request shall set forth in reasonable detail the basis for requesting such amount), compensate each Lender for the loss (excluding loss of anticipated profits), cost and expense that such Lender actually incurred by reason of the liquidation or reemployment of deposits or other funds acquired by such Lender to fund or maintain Eurocurrency Loans. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 15 days after receipt of such demand.

SECTION 2.17. **Taxes**.

(a) Unless required by applicable Requirements of Law, any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, **provided** that if any applicable withholding agent shall be required by applicable Requirements of Law to deduct or withhold any Indemnified Taxes from such payments, then (i) the amount payable by the applicable Loan Party shall be increased as necessary so that after all required deductions or withholdings have been made (including deductions or withholdings of

Indemnified Taxes applicable to additional amounts payable under this **Section 2.17**), the Administrative Agent, Lender or Issuing Bank (as the case may be) receives an amount equal to the sum it would have received had no such deductions or withholdings been made, (ii) the applicable withholding agent shall make such deductions or withholdings and (iii) the applicable withholding agent shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable Requirements of Law.

(b) Without limiting the provisions of **paragraph (a)** above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with Requirements of Law.

(c)

(i) Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent, each Lender and each Issuing Bank, within 30 days after written demand therefor, for the full amount of any Indemnified Taxes payable by the Administrative Agent, such Lender or such Issuing Bank, as the case may be (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this **Section 2.17**) and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate setting forth in reasonable detail the basis and calculation of the amount of such payment or liability delivered to the Borrower by a Lender or an Issuing Bank, or by the Administrative Agent on its own behalf or on behalf of a Lender or an Issuing Bank, shall be conclusive absent manifest error.

(ii) Indemnification by the Lenders. Each Lender shall severally indemnify the Administrative Agent, within 30 days after written demand therefor, for the full amount of (A) any Indemnified Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligations of the Loan Parties to do so), (B) any Taxes attributable to such Lender's failure to comply with the provisions of **Section 9.04(c)** relating to the maintenance of a Participant Register and (C) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate setting forth in reasonable detail the basis and calculation of the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph.

(d) As soon as practicable after any payment of Taxes by a Loan Party to a Governmental Authority pursuant to this **Section 2.17**, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) Each Lender shall, at such times as are reasonably requested by Borrower or the Administrative Agent, provide the Borrower and the Administrative Agent with any properly completed and executed documentation prescribed by Requirements of Law, or reasonably requested by the Borrower or the Administrative Agent, certifying as to any entitlement of such Lender to an exemption from, or reduction in, any withholding Tax with respect to any payments to be made to such Lender under the Loan Documents (including, in the case of a Lender seeking exemption from the withholding imposed under FATCA, any documentation necessary to prevent such withholding). In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by Requirements of Law, or reasonably requested by the Borrower or the Administrative Agent, as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Each such Lender shall, whenever a lapse in time or change in circumstances renders such documentation (including any documentation specifically referenced below in this **Section 2.17(e)**) expired, obsolete or inaccurate in any material respect, deliver promptly to the Borrower and the Administrative Agent updated or other appropriate documentation (including any new documentation reasonably requested by the applicable withholding agent) or promptly notify the Borrower and the Administrative Agent in writing of its inability to do so. Notwithstanding the foregoing, the completion, execution and submission of such documentation (other than documentation set forth in **Section 2.17(e)(i)**, **2.17(e)(ii)(A)** through **(D)** and **2.17(e)(iii)**) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

Without limiting the generality of the foregoing:

(i) Each Lender that is a United States person (as defined in Section 7701(a)(30) of the Code) shall deliver to the Borrower and the Administrative Agent on or before the date on which it becomes a party to this Agreement (and from time to time thereafter when required by Requirements of Law or upon the reasonable request of the Borrower or the Administrative Agent), two properly completed and duly signed copies of IRS Form W-9 (or any successor forms) certifying that such Lender is a United States person exempt from U.S. federal backup withholding.

(ii) Each Lender that is not a United States person (as defined in Section 7701(a)(30) of the Code) shall deliver to the Borrower and the Administrative Agent on or before the date on which it becomes a party to this Agreement (and from time to time thereafter when required by Requirements of Law or upon the reasonable request of the Borrower or the Administrative Agent) whichever of the following is applicable:

(A) in the case of a Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under this Agreement or any other Loan Document, two properly completed and duly signed copies of IRS Form W-8BEN or W-8BEN-E (or any successor forms) establishing an exemption from, or reduction of, U.S. federal withholding tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under this Agreement or any other Loan Document, IRS Form W-8BEN or W-8BEN-E (or any successor forms) establishing an exemption from, or reduction of, U.S. federal withholding tax pursuant to the "business profits" or "other income" article of such tax treaty,

(B) two properly completed and duly signed copies of IRS Form W-8ECI (or any successor forms),

(C) in the case of a Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate, in substantially the form of **Exhibit O-1**, **O-2**, **O-3** or **O-4**, as applicable (any such certificate a "**U.S. Tax Compliance Certificate**"), or any other form approved by the Administrative Agent with the written consent of the Borrower (not to be unreasonably withheld or delayed), to the effect that such Lender is not (1) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (2) a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or (3) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code, and that no payments in connection with the Loan Documents are effectively connected with such Lender's conduct of a U.S. trade or business and (y) two properly completed and duly signed copies of IRS Form W-8BEN or W-8BEN-E (or any successor forms),

(D) to the extent a Lender is not the beneficial owner of the applicable Loan (for example, where the Lender is a partnership or a participating Lender), two properly completed and duly signed copies of IRS Form W-8IMY (or any successor forms) of the Lender, each accompanied by a Form W-8ECI, W-8EXP, W-8BEN, W-8BEN-E, U.S. Tax Compliance Certificate, Form W-9, Form W-8IMY (or other successor forms) or any other required information from each beneficial owner, as applicable (**provided** that, if the Lender is a partnership (and not a participating Lender) and one or more beneficial owners are claiming the portfolio interest exemption, the U.S. Tax Compliance Certificate may be provided by such Lender on behalf of such beneficial owner(s)), or

(E) any other form prescribed by applicable Requirements of Law as a basis for claiming exemption from or a reduction in U.S. federal withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable Requirements of Law to permit the Borrower and the Administrative Agent to determine the withholding or deduction required to be made.

(iii) If a payment made to a Lender under any Loan Document would be subject to withholding tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times required by Requirements of Law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation required by Requirements of Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA, to determine whether such Lender has complied with such Lender's obligations under FATCA and to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this **clause (iii)**, "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Notwithstanding any other provision of this **Section 2.17(e)**, a Lender shall not be required to deliver any form or documentation that such Lender is not legally eligible to deliver.

(f) If the Administrative Agent, an Issuing Bank or a Lender determines, in its reasonable discretion, that it has received a refund of any Indemnified Taxes as to which it has been indemnified by any Loan Party or with respect to which any Loan Party has paid additional amounts pursuant to this **Section 2.17**, it shall pay over an amount equal to such refund to the Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by Loan Parties under this **Section 2.17** with respect to the Indemnified Taxes giving rise to such refund), net of all out-of-pocket expenses

(including Taxes) of the Administrative Agent, such Issuing Bank or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), **provided** that the Borrower, upon the request of the Administrative Agent, such Issuing Bank or such Lender, agrees promptly to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent, such Issuing Bank or such Lender in the event the Administrative Agent, such Issuing Bank or such Lender is required to repay such refund to such Governmental Authority. The Administrative Agent, such Lender or such Issuing Bank, as the case may be, shall, at the Borrower's request, provide the Borrower with a copy of any notice of assessment or other evidence of the requirement to repay such refund received from the relevant taxing authority (**provided** that the Administrative Agent, such Lender or such Issuing Bank may delete any information therein that the Administrative Agent, such Lender or such Issuing Bank deems confidential). Notwithstanding anything to the contrary, this **clause (f)** shall not be construed to require the Administrative Agent, any Lender or any Issuing Bank to make available its tax returns (or any other information relating to Taxes which it deems confidential).

(g) For purposes of this **Section 2.17**, the term "Lender" shall include any Issuing Bank and the term "Requirements of Law" includes FATCA.

SECTION 2.18. **Payments Generally; Pro Rata Treatment; Sharing of Setoffs**.

(a) The Borrower shall make each payment required to be made by it under any Loan Document (whether of principal, interest, fees or reimbursement of LC Disbursements, or of amounts payable under **Section 2.15**, **2.16** or **2.17**, or otherwise) prior to the time expressly required hereunder or under such other Loan Document for such payment (or, if no such time is expressly required, prior to 2:00 p.m., New York City time), on the date when due, in Same Day Funds, without condition or deduction for any counterclaim, recoupment or setoff. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to such account as may be specified by the Administrative Agent, except payments to be made directly to any Issuing Bank shall be made as expressly provided herein and except that payments pursuant to **Sections 2.15**, **2.16**, **2.17** and **9.03** shall be made directly to the Persons entitled thereto and payments pursuant to other Loan Documents shall be made to the Persons specified therein. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment (other than payments on the Eurocurrency Loans) under any Loan Document shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day. If any payment on a Eurocurrency Loan becomes due and payable on a day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day unless the result of such extension would be to extend such payment into another calendar month, in which event such payment shall be made on the immediately preceding Business Day. In the case of any payment of principal pursuant to the preceding two sentences, interest thereon shall be payable at the then applicable rate for the period of such extension. All payments or prepayments of any Loan, all reimbursements of any LC Disbursements, all payments of accrued interest payable on a Loan or LC Disbursement and all other payments under each Loan Document shall be made in Dollars except as otherwise expressly provided herein.

(b) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, unreimbursed LC Disbursements, interest and fees then due hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) second, towards payment of principal and unreimbursed LC Disbursements then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and unreimbursed LC Disbursements then due to such parties.

(c) Except as otherwise permitted hereunder, if any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any of its Loans of any Class or participations in LC Disbursements resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans of such Class or participations in LC Disbursements and accrued interest thereon than the proportion received by any other relevant Lender in respect of such other Lenders' Loans of such Class or participation in LC Disbursements, as applicable, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Loans of such Class or participations in LC Disbursements from the relevant Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans of such Class or participations in LC Disbursements; **provided** that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest and (ii) the provisions of this paragraph shall not be construed to apply to (A) any payment by the Borrower or any Loan Party made pursuant to and in accordance with the express terms of this Agreement and the other Loan Documents (including the application of funds arising from the existence of a Defaulting Lender and as contemplated by **Sections 2.11(a)(ii)** and **9.04(g)**), (B) any payment obtained by a Lender as consideration for the assignment of, or sale of, a participation in any of its Loans or participations in LC Disbursements to any assignee or participant or (C) any disproportionate payment obtained by a Lender of any Class as a result of the extension by Lenders of the maturity date or expiration date of some but not all Loans or Commitments of that Class or any increase in the Applicable Rate (or other pricing term, including any fee, discount or premium) in respect of Loans or Commitments of Lenders that have consented to any such extension to the extent such transaction is permitted hereunder. The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under Requirements of Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(d) (i) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or any Issuing Bank hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption and in its sole discretion, distribute to the Lenders or applicable Issuing Bank, as the case may be, the amount due.

(ii) With respect to any payment that the Administrative Agent makes for the account of the Lenders or any Issuing Bank hereunder as to which the Administrative Agent determines (which determination shall be conclusive absent manifest error) that any of the following applies (such payment referred to as the "**Rescindable Amount**"): (1) the Borrower has not in fact made such payment; (2) the Administrative Agent has made a payment in excess of the amount so paid by the Borrower (whether or not then owed); or (3) the Administrative Agent has for any reason otherwise erroneously made such payment; then each of the Lenders or the applicable Issuing Bank, as the case may be, severally agrees with the Administrative Agent to repay to the Administrative Agent forthwith on demand the Rescindable Amount so distributed to such Lender or such Issuing Bank, in immediately available funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank

compensation. A notice of the Administrative Agent to any Lender or Issuing Bank with respect to any amount owing under this **Section 2.18(d)(ii)** shall be conclusive, absent manifest error. This **Section 2.18(d)(ii)** shall solely be an agreement between the Administrative Agent, the Lenders and the Issuing Banks.

SECTION 2.19. **Mitigation Obligations; Replacement of Lenders**.

(a) If any Lender requests compensation under **Section 2.15**, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to **Section 2.17** or any event gives rise to the operation of **Section 2.23**, then such Lender shall use reasonable efforts (at the expense of the Borrower) to designate a different Lending Office for funding or booking its Loans hereunder or its participation in any Letter of Credit affected by such event, or to assign and delegate its rights and obligations hereunder to another of its offices, branches or Affiliates, if, in the reasonable judgment of such Lender, such designation or assignment and delegation (i) would eliminate or reduce amounts payable pursuant to **Section 2.15** or **2.17** or eliminate the applicability of **Section 2.23**, as the case may be, and (ii) would not subject such Lender to any unreimbursed cost or expense and would not be disadvantageous in any material economic, legal or regulatory respect to such Lender.

(b) If (i) any Lender requests compensation under **Section 2.15** or gives notice under **Section 2.23**, (ii) the Borrower is required to pay any additional amount to any Lender or to any Governmental Authority for the account of any Lender pursuant to **Section 2.17** or (iii) any Lender is a Defaulting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate at par, without recourse (in accordance with and subject to the restrictions contained in **Section 9.04**), all its interests, rights and obligations under this Agreement and the other Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment and delegation); **provided** that (A) the Borrower shall have received the prior written consent of the Administrative Agent to the extent such consent would be required under **Section 9.04(b)** for an assignment of Loans or Commitments, as applicable (and if a Revolving Commitment is being assigned and delegated, each Issuing Bank), which consents, in each case, shall not unreasonably be withheld or delayed, (B) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and unreimbursed participations in LC Disbursements, accrued but unpaid interest thereon, accrued but unpaid fees and all other amounts due and payable to it hereunder from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts) and (C) the Borrower or such assignee shall have paid (unless waived) to the Administrative Agent the processing and recordation fee specified in **Section 9.04(b)(ii)** and (D) in the case of any such assignment resulting from a claim for compensation under **Section 2.15**, or payments required to be made pursuant to **Section 2.17** or a notice given under **Section 2.23**, such assignment will result in a reduction in such compensation or payments. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise (including as a result of any action taken by such Lender under **paragraph (a)** above), the circumstances entitling the Borrower to require such assignment and delegation cease to apply. Each party hereto agrees that an assignment required pursuant to this paragraph may be effected pursuant to an Assignment and Assumption executed by the Borrower, the Administrative Agent and the assignee and that the Lender required to make such assignment need not be a party thereto.

SECTION 2.20. **Incremental Credit Extensions**.

(a) The Borrower may at any time or from time to time after the Effective Date, by written notice delivered to the Administrative Agent request (i) one or more additional Classes of term loans or additional or increases in term loans of the same Class of any existing Class of term loans, in each case, in Dollars or any other currency (the "**Incremental Term Loans**"), (ii) one or more increases in the amount of the Revolving Commitments of any Class (each such increase, an "**Incremental Revolving Commitment Increase**") or (iii) one or more additional Classes of revolving credit commitments (the "**Incremental Revolving Commitments**," and, together with the Incremental Term Loans and the Incremental Revolving Commitment Increases, the "**Incremental Facilities**" and the commitments in respect thereof are referred to as the "**Incremental Commitments**"); **provided** that, subject to **Section 1.10**, at the time that any such Incremental Term Loan, Incremental Revolving Commitment Increase or Incremental Revolving Commitment is made or effected (and after giving pro forma effect thereto), except as set forth in the proviso to **clause (b)** below, no Event of Default (or, in the case of the Incurrence or provision of any Incremental Facility in connection with an Acquisition or other Investment or any prepayment, redemption, repurchase, defeasance, acquisition or similar payment of Indebtedness or Equity Interests that requires irrevocable notice in advance thereof, no Event of Default under **Section 7.01(a)**, **(b)**, **(h)** or **(i)**) shall have occurred and be continuing.

(b) Each tranche of Incremental Term Loans, each tranche of Incremental Revolving Commitments and each Incremental Revolving Commitment Increase shall be in an aggregate principal amount that is not less than **$5,000,000** (it being understood that such amount may be less than **$5,000,000** if such amount represents all remaining availability under the limit set forth below) (and in minimum increments of **$1,000,000** in excess thereof), and, subject to the proviso at the end of this **Section 2.20(b)**, the aggregate amount of the Incremental Term Loans, Incremental Revolving Commitment Increases and the Incremental Revolving Commitments (after giving pro forma effect thereto and the use of the proceeds thereof) Incurred pursuant to this **Section 2.20(b)**, shall not exceed, as of the date of Incurrence of such Indebtedness or commitments, the sum of

(A) the Incremental Base Amount plus

(B) an aggregate amount of Indebtedness, such that, subject to **Section 1.10**, after giving pro forma effect to such Incurrence (and after giving pro forma effect to any Specified Event to be consummated in connection therewith and assuming that all Incremental Revolving Commitment Increases, Incremental Revolving Commitments and other Incremental Commitments then outstanding and Incurred under this **clause (B)** were fully drawn), the Borrower would be in compliance with a Consolidated First Lien Leverage Ratio as of the last day of the Test Period most recently ended on or prior to the Incurrence of any such Incremental Facility, calculated on a pro forma basis, as if such Incurrence (and such Specified Events) had occurred on the first day of such Test Period, that is no greater than either (x) 4.00:1.00 (whether or not Incurred in connection with an Acquisition, Investment or similar transaction) or (y) if Incurred in connection with an Acquisition, Investment or similar transaction, the Consolidated First Lien Leverage Ratio immediately prior to such Acquisition, Investment or similar transaction (this **clause (B)**, the "**Incremental Ratio Debt Amount**" and, together with the Incremental Base Amount, the "**Incremental Limit**");

provided that

(i) Incremental Term Loans may be Incurred without regard to the Incremental Limit, without regard to whether an Event of Default has occurred and is continuing and without regard to the minimums set forth in the first part of this **Section 2.20(b)**, to the extent that the Net Cash Proceeds from such Incremental Term Loans on the date of Incurrence of such Incremental Term Loans (or substantially concurrently therewith) are used to either (x) prepay Term Loans and related amounts in accordance with the procedures set forth in **Section 2.11(b)**

and/or (y) permanently reduce the Revolving Commitments, Extended Revolving Commitments or Incremental Revolving Commitments (and, if applicable, repay or reduce any related revolving exposure thereunder) in accordance with the procedures set forth in **Section 2.11(g)(ii)** (and any such Incremental Term Loans shall be deemed to have been Incurred pursuant to this proviso), and

(ii) Incremental Revolving Commitments may be provided without regard to the Incremental Limit, without regard to whether an Event of Default has occurred and is continuing and without regard to the minimums set forth in the first part of this **Section 2.20(b)**, to the extent that the existing Revolving Commitments, Extended Revolving Commitments or other Incremental Revolving Commitments, as applicable, shall be permanently reduced (and, if applicable, any related revolving exposure repaid or reduced) in accordance with **Section 2.11(g)(ii)** by an amount equal to the aggregate amount of Incremental Revolving Commitments so provided (and any such Incremental Revolving Commitments shall be deemed to have been Incurred pursuant to this proviso).

(c) The Incremental Term Loans

(A) shall be secured only by all or a portion of the Collateral securing the Secured Obligations (and shall not be secured on basis senior to the Liens securing the the Initial Term Loans) and shall only be guaranteed by the Loan Parties (and shall not rank prior in right of payment to the Initial Term Loans),

(B) shall not mature earlier than the Initial Term Maturity Date,

(C) shall not have a shorter Weighted Average Life to Maturity than the then remaining Weighted Average Life to Maturity of the Initial Term Loans,

(D) any Incremental Term Loans may participate on a pro rata basis or less than pro rata basis (but not, except in the case of any Refinancing of such Indebtedness, on a greater than a pro rata basis) in any mandatory prepayments of the Term Loans hereunder, as specified in the applicable Incremental Amendment,

(E) shall have a maturity date (subject to **clause (B)**), an amortization schedule (subject to **clause (C)**), and interest rates (including through fixed exchange rates or payment-in-kind interest), interest rate margins, AHYDO Catch-Up Payments, rate floors, fees, funding discounts, original issue discounts, closing payments, currency types and denominations, and redemption or prepayment terms (subject to **clause (D)**) and premiums for the Incremental Term Loans as determined by the Borrower and the lenders of the Incremental Term Loans; **provided** that, during the period commencing on the Effective Date and ending on the date that is twelve months after the Effective Date, in the event that the Effective Yield for any Incremental Term Loans (other than Incremental Term Loans (1) established pursuant to the proviso of **Section 2.20(b)**, (2) having a final maturity date that is more than two years after the Initial Term Maturity Date, (3) Incurred in connection with an Acquisition, Investment or similar transaction, (4) denominated in a currency other than Dollars or (5) Incurred under the Incremental Base Amount (clauses (1) through (5), collectively, the "**MFN Exceptions**")) is greater than the Effective Yield for the Initial Term Loans by more than 0.50%, then the Applicable Rates for the Initial Term Loans shall be increased to the extent necessary so that the Effective Yield for the Initial Term Loans are equal to the Effective Yield for the Incremental Term Loans minus 0.50% (this proviso, the "**MFN Protection**"),

(F) may otherwise have terms and conditions different from those of the Initial Term Loans; **provided** that (x) except with respect to matters contemplated by **clauses (B)**, **(C)**, **(D)** and **(E)** above, any differences shall be, at the option of the Borrower, either (1) reasonably satisfactory to the Administrative Agent (except for covenants and other provisions or requirements applicable only to the periods after the Latest Maturity Date), (2) consistent with market terms and conditions, when taken as a whole, at the time of Incurrence or effectiveness of such Incremental Facility (as determined by the Borrower in good faith) or (3) not be materially more restrictive on the Borrower and its Restricted Subsidiaries than the terms of this Agreement, when taken as a whole and (y) the documentation governing any Incremental Term Loans may include any Previously Absent Financial Maintenance Covenant so long as the Administrative Agent shall have been given prompt written notice thereof and this Agreement is amended to include such Previously Absent Financial Maintenance Covenant for the benefit of each Facility.

(d) The Incremental Revolving Commitment Increase shall be treated the same as the Class of Revolving Commitments being increased (including with respect to maturity date thereof) and shall be considered to be part of the Class of Revolving Facility being increased (it being understood that, if required to consummate an Incremental Revolving Commitment Increase, the interest rate margins, rate floors and undrawn commitment fees on the Class of Revolving Commitments being increased may be increased and additional upfront or similar fees may be payable to the lenders participating in the Incremental Revolving Commitment Increase (without any requirement to pay such upfront or similar fees to any existing Revolving Lenders)).

(e) The Incremental Revolving Commitments

(A) shall be secured only by all or a portion of the Collateral securing the Secured Obligations (and shall not be secured on basis senior to the Liens securing the the Initial Revolving Facility) and shall only be guaranteed by the Loan Parties (and shall not rank prior in right of payment to the Initial Revolving Facility),

(B) shall not mature earlier than the Revolving Maturity Date and shall require no scheduled amortization or mandatory commitment reduction prior to the Revolving Maturity Date,

(C) shall have interest rates (including through fixed exchange rates or payment-in-kind interest), interest rate margins, AHYDO Catch-Up Payments, rate floors, fees, funding discounts, original issue discounts, closing payments, currency types and denominations, and redemption or prepayment terms (subject to **clause (B)**) and premiums and commitment reduction and termination terms (subject to **clause (B)**) as determined by the Borrower and the lenders of such commitments,

(D) shall contain borrowing, repayment and termination of commitment procedures (subject to **clause (B)**) as determined by the Borrower and the lenders of such commitments,

(E) may include provisions relating to letters of credit, as applicable, issued thereunder, which issuances shall be on terms substantially similar (except for the overall size of such subfacilities, the fees payable in connection therewith and the identity of the letter of credit issuer, as applicable, which shall be determined by the Borrower, the lenders of such commitments and the applicable letter of credit issuers and borrowing,

repayment and termination of commitment procedures with respect thereto, in each case which shall be specified in the applicable Incremental Amendment) to the terms relating to the Letters of Credit with respect to any then existing Class of Revolving Commitments or otherwise reasonably acceptable to the Administrative Agent (it being understood that no Issuing Bank shall be required to act as "issuing bank" under any Incremental Revolving Facility without its written consent), and

(F) may otherwise have terms and conditions different from those of the Initial Revolving Facility; **provided** that

(x) except with respect to matters contemplated by **clauses (B)**, **(C)**, **(D)** and **(E)** above, any differences shall be, at the option of the Borrower, either (1) reasonably satisfactory to the Administrative Agent (except for covenants and other provisions or requirements applicable only to the periods after the Latest Maturity Date), (2) consistent with market terms and conditions, when taken as a whole, at the time of Incurrence or effectiveness of such Incremental Facility (as determined by the Borrower in good faith) or (3) not be materially more restrictive on the Borrower and its Restricted Subsidiaries than the terms of this Agreement, when taken as a whole and (y) the documentation governing any Incremental Term Loans may include any Previously Absent Financial Maintenance Covenant so long as the Administrative Agent shall have been given prompt written notice thereof and this Agreement is amended to include such Previously Absent Financial Maintenance Covenant for the benefit of each Facility, and

(y) the documentation governing any Incremental Revolving Commitments may include any Previously Absent Financial Maintenance Covenant so long as the Administrative Agent shall have been given prompt written notice thereof and this Agreement is amended to include such Previously Absent Financial Maintenance Covenant for the benefit of each Facility (**provided**, **further**, **however**, that, if the applicable Previously Absent Financial Maintenance Covenant is a "springing" financial maintenance covenant for the benefit of such Revolving Facility or a covenant only applicable to, or for the benefit of, a revolving credit facility, the Previously Absent Financial Maintenance Covenant shall be automatically included in this Agreement only for the benefit of each Revolving Facility hereunder (and not for the benefit of any term loan facility hereunder)).

(f) Each notice from the Borrower pursuant to this **Section 2.20** shall be given in writing and shall set forth the requested amount and proposed terms of the relevant Incremental Term Loans, Incremental Revolving Commitment Increases or Incremental Revolving Commitments. Incremental Term Loans may be made, and Incremental Revolving Commitment Increases and Incremental Revolving Commitments may be provided, subject to the prior written consent of the Borrower (not to be unreasonably withheld or delayed), by any existing Lender (it being understood that no existing Lender with an Initial Term Loan Commitment will have an obligation to make a portion of any Incremental Term Loan, no existing Lender with a Revolving Commitment will have any obligation to provide a portion of any Incremental Revolving Commitment Increase and no existing Lender with a Revolving Commitment will have an obligation to provide a portion of any Incremental Revolving Commitment) or by any other bank, financial institution, other institutional lender or other investor (any such other bank, financial institution or other investor being called an "**Additional Lender**"); **provided** that the Administrative Agent shall have consented (not to be unreasonably withheld or delayed) to such

Lender's or Additional Lender's making such Incremental Term Loans or providing such Incremental Revolving Commitment Increases or such Incremental Revolving Commitments if such consent would be required under **Section 9.04(b)** for an assignment of Loans or Commitments, as applicable, to such Lender or Additional Lender; **provided**, **further**, that, solely with respect to any Incremental Revolving Commitment Increases or Incremental Revolving Commitments, the Issuing Bank shall have consented (not to be unreasonably withheld or delayed) to such Lender's or Additional Lender's providing such Incremental Revolving Commitment Increases or Incremental Revolving Commitments if such consent would be required under **Section 9.04(b)** for an assignment of Loans or Commitments, as applicable, to such Lender or Additional Lender.

(g) Commitments in respect of Incremental Term Loans, Incremental Revolving Commitment Increases and Incremental Revolving Commitments shall become Commitments (or in the case of an Incremental Revolving Commitment Increase to be provided by an existing Lender with a Revolving Commitment, an increase in such Lender's applicable Revolving Commitment) under this Agreement pursuant to an amendment (an "**Incremental Amendment**") to this Agreement and, as appropriate, the other Loan Documents, executed by the Borrower, each Lender agreeing to provide such Commitment, if any, each Additional Lender, if any, and the Administrative Agent. The Incremental Amendment may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section (including (i) in connection with an Incremental Revolving Commitment Increase, to reallocate Revolving Exposure on a pro rata basis among the relevant Revolving Lenders, (ii) to make amendments that are not adverse to the interests of any Lender that are made to effectuate changes necessary, (including to increase the Effective Yield of the applicable Class of Term Loans and adjustments to **Section 2.10(a)**) to ensure that any applicable Class of Incremental Term Loans are "fungible" with such existing Class of Term Loans for United States federal income tax purposes, which shall include any amendments that do not reduce the ratable amortizations received by each Lender hereunder, (iii) to add or extend "soft call" or add or extend any other "call protection", in either case for the benefit of any existing Class of Term Loans or Revolving Loans and/or (iv) add or modify any provisions pursuant to **Section 2.20(c)(F)** and **Section 2.20(e)(F)**). The effectiveness of any Incremental Amendment and the occurrence of any Credit Extension pursuant to such Incremental Amendment shall be subject to the satisfaction of such conditions as the parties thereto shall agree. The Borrower will use the proceeds of the Incremental Term Loans, Incremental Revolving Commitment Increases and Incremental Revolving Commitments for any purpose not prohibited by this Agreement; **provided**, **however**, that the proceeds of any Incremental Term Loans Incurred, and any Incremental Revolving Commitments provided, in either case as described in the proviso to **Section 2.20(b)**, shall be used in accordance with the terms thereof.

(h) No Lender shall be obligated to provide any Incremental Term Loans, Incremental Revolving Commitment Increases or Incremental Revolving Commitments unless it so agrees and the Borrower shall not be obligated to offer any existing Lender the opportunity to provide any Incremental Term Loans, Incremental Revolving Commitment Increases or Incremental Revolving Commitments.

(i) Upon each increase in the Revolving Commitments of any Class pursuant to this Section, each Lender with a Revolving Commitment of such Class immediately prior to such increase will automatically and without further act be deemed to have assigned to each Lender providing a portion of the Incremental Revolving Commitment Increase (each, an "**Incremental Revolving Commitment Increase Lender**") in respect of such increase, and each such Incremental Revolving Commitment Increase Lender will automatically and without further act be deemed to have assumed, a portion of such Lender's participations hereunder in outstanding Letters of Credit such that, after giving pro forma effect to each such deemed assignment and assumption of participations, the percentage of the aggregate

outstanding participations hereunder in Letters of Credit held by each Lender with a Revolving Commitment of such Class (including each such Incremental Revolving Commitment Increase Lender) will equal the percentage of the aggregate Revolving Commitments of such Class of all Lenders represented by such Lender's Revolving Commitment of such Class. If, on the date of such increase, there are any Revolving Loans of such Class outstanding, such Revolving Loans shall on or prior to the effectiveness of such Incremental Revolving Commitment Increase be prepaid from the proceeds of additional Revolving Loans made hereunder (reflecting such increase in Revolving Commitments of such Class), which prepayment shall be accompanied by accrued interest on the Revolving Loans of such Class being prepaid and any costs incurred by any Lender in accordance with **Section 2.16**. The Administrative Agent and the Lenders hereby agree that the minimum borrowing, pro rata borrowing and pro rata payment requirements contained elsewhere in this Agreement shall not apply to the transactions effected pursuant to the immediately preceding sentence.

(j) This **Section 2.20** shall supersede any provisions in **Section 2.18** or **Section 9.02** to the contrary. For the avoidance of doubt, any provisions of this **Section 2.20** may be amended with the consent of the Required Lenders; **provided** that no such amendment shall require any Lender to provide any Incremental Commitment without such Lender's consent.

SECTION 2.21. **Maturity Extension**.

(a) Notwithstanding anything to the contrary in this Agreement, pursuant to one or more offers (each, an "**Extension Offer**") made from time to time by the Borrower to any or all Lenders of a Class of Term Loans or a Class of Revolving Commitments or a Class of Incremental Revolving Commitments (**provided** that the Borrower shall promptly provide notice of such offer to the Administrative Agent and, in the case of any offer not made to all Lenders of a Class, the Administrative Agent may inform each Lender of such applicable Class of such offer and, to the extent so informed, the Lenders of such Class shall be able to accept or reject such offer on a pro rata basis (based on the aggregate outstanding principal amount of the respective Term Loans or Commitments of such Class) and on the same terms of as the Lender offered such Extension Offer), the Borrower is hereby permitted to consummate from time to time transactions with individual Lenders that accept the terms contained in such Extension Offers to extend the maturity date of each such Lender's Term Loans and/or Commitments and otherwise modify the terms of such Term Loans and/or Commitments pursuant to the terms of the relevant Extension Offer (each, an "**Extension**"), so long as the following terms are satisfied: the Revolving Commitment or Incremental Revolving Commitment of any Lender that agrees to an Extension with respect to such Commitment extended pursuant to an Extension (an "**Extended Revolving Commitment**", any such loans thereunder, "**Extended Revolving Loans**"), and the related outstandings, shall be a Class of Commitment (or related outstandings, as the case may be) with substantially the same terms as the original Class of Commitments being extended (and related outstandings); **provided** that

(w) all or any of the final maturity dates of such Extended Revolving Commitments may be delayed to later dates than the final maturity dates of the original Class of Commitments from which such Extended Revolving Commitments were extended,

(x) (1) the interest rates, interest margins, rate floors, upfront fees, funding discounts, original issue discounts and prepayment terms and premiums with respect to the Extended Revolving Commitments may be different than those of the original Class of Commitments from which such Extended Revolving Commitments were extended and/or (2) additional fees and/or premiums may be payable to the Lenders providing such Extended Revolving Commitments in addition to or in lieu of any of the items contemplated by the preceding **clause (1)** and

(y) (1) the undrawn revolving credit commitment fee rate with respect to the Extended Revolving Commitments may be different than those of the original Class of Commitments from which such Extended Revolving Commitments were extended and (2) the Extension Offer may provide for other covenants and terms that apply to any period after the Latest Maturity Date; **provided further** that, notwithstanding anything to the contrary in this **Section 2.21**, **Section 2.11(g)** or otherwise,

(I) the borrowing and repayment (other than in connection with a permanent repayment and termination of commitments) of the Loans under any Extended Revolving Commitments shall be made on a pro rata basis with any borrowings and repayments of the Loans of the of the original Class of Commitments from which such Extended Revolving Commitments were extended (the mechanics for which may be implemented through the applicable Extension Offer and may include technical changes related to the borrowing and repayment procedures of the of the original Class of Commitments from which such Extended Revolving Commitments were extended),

(II) assignments and participations of Extended Revolving Commitments and Extended Revolving Loans shall be governed by the assignment and participation provisions set forth in **Section 9.04** and

(III) subject to the applicable limitations set forth in **Section 2.08(b)** and **Section 2.11(g)(ii)**, permanent repayments of Loans (and corresponding permanent reduction in the related Extended Revolving Commitments) shall be permitted as may be agreed between the Borrower and the Lenders thereof and (B) the Term Loans of any Term Lender that agrees to an Extension with respect to such Term Loans (an "**Extending Term Lender**") extended pursuant to any Extension ("**Extended Term Loans**" and any such commitment to provide such Extended Term Loans, an "**Extended Term Loan Commitment**") shall have substantially the same terms as the Class of Term Loans subject to such Extension Offer;

provided that

(w) the scheduled final maturity date shall be extended and all or any of the scheduled amortization payments of all or a portion of any principal amount of such Extended Term Loans may be delayed to later dates than the scheduled amortization of principal of the Term Loans of the original Class of Term Loans from which such Extended Term Loans were extended (with any such delay resulting in a corresponding adjustment to the scheduled amortization payments reflected in **Section 2.10** or in the Extension Offer or the Incremental Amendment, as the case may be, with respect to the original Class of Term Loans from which such Extended Term Loans were extended),

(x) (A) the interest rates (including through fixed interest rates), interest margins, rate floors, upfront fees, funding discounts, original issue discounts and prepayment terms and premiums with respect to the Extended Term Loans may be different than those for the original Class of Term Loans from which such Extended Term Loans were extended and/or (B) additional fees and/or premiums may be payable to the Lenders providing such Extended Term Loans in addition to any of the items contemplated by the preceding **clause (A)**, in each case, to the extent provided in the applicable Extension Offer,

(y) subject to the provisions set forth in **Section 2.11**, the Extended Term Loans may have optional prepayment terms (including call protection and prepayment terms and premiums) and mandatory prepayment terms as may be agreed between the Borrower and the Lenders thereof and

(z) the Extension Offer may provide for other covenants and terms that apply to any period after the Latest Maturity Date.

If the aggregate principal amount of Term Loans (calculated on the face amount thereof) or Revolving Commitments, as the case may be, in respect of which Term Lenders or Revolving Lenders, as the case may be, shall have accepted the relevant Extension Offer shall exceed the maximum aggregate principal amount of Term Loans or Revolving Commitments, as the case may be, offered to be extended by the Borrower pursuant to such Extension Offer, then the Term Loans or Revolving Loans, as the case may be, of such Term Lenders or Revolving Lenders, as the case may be, shall be extended ratably up to such maximum amount based on the respective principal amounts (but not to exceed actual holdings of record) with respect to which such Term Lenders or Revolving Lenders, as the case may be, have accepted such Extension Offer, with any allocated amounts in excess of any applicable Lender's actual holdings of record to be reallocated pro rata across the remaining Lenders of the applicable Class of Term Loans or Revolving Loans who have accepted such Extension Offer. All documentation in respect of such Extension shall be consistent with the foregoing and any applicable Minimum Extension Condition shall be satisfied unless waived by the Borrower. For the avoidance of doubt, no Lender shall be required to participate in any Extension.

(b) With respect to all Extensions consummated by the Borrower pursuant to this Section, (i) such Extensions shall not constitute voluntary or mandatory payments or prepayments for purposes of **Section 2.11** and (ii) no Extension Offer is required to be in any minimum amount or any minimum increment; **provided** that the Borrower may at its election specify as a condition (a "**Minimum Extension Condition**"), which condition may be waived by the Borrower, to consummating any such Extension that a minimum amount (to be determined and specified in the relevant Extension Offer in the Borrower's sole discretion) of Term Loans or Revolving Commitments (as applicable) of any or all applicable Classes be tendered. The Administrative Agent and the Lenders hereby consent to the transactions contemplated by this **Section 2.21** (including, for the avoidance of doubt, payment of any interest, fees or premium in respect of any Extended Term Loans and/or Extended Revolving Commitments on such terms as may be set forth in the relevant Extension Offer) and hereby waive the requirements of any provision of this Agreement or any other Loan Document that may otherwise prohibit any such Extension or any other transaction contemplated by this **Section 2.21**.

(c) No consent of any Lender or the Administrative Agent shall be required to effectuate any Extension, other than (A) the consent of each Lender agreeing to such Extension with respect to one or more of its Term Loans and/or Commitments (or any portion thereof) and (B) with respect to any Extension of the Revolving Commitments, the consent of the Issuing Bank to the extent that such Issuing Bank is materially adversely affected or is being asked to extend its role in connection with Letters of Credit beyond the then-applicable Revolving Maturity Date. All Extended Term Loans, Extended Revolving Loans, Extended Revolving Commitments and all obligations in respect thereof shall be Loan Document Obligations that are secured by Liens on the Collateral that are equal in priority to the Liens on the Collateral securing the Secured Obligations. Each of the parties hereto hereby agrees that the Administrative Agent and the Borrower may, without the consent of any Lender, effect such

amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this **Section 2.21** and any Extension (including any amendments necessary to treat the Loans and Commitments subject thereto as Extended Term Loans, Extended Revolving Loans and/or Extended Revolving Commitments and as a separate Class hereunder of Loans and Commitments, as the case may be). In addition, if so provided in such amendment and with the consent of each Issuing Bank, participations in Letters of Credit expiring on or after the Revolving Maturity Date with respect to such Class in respect of the Revolving Loans and Revolving Commitments of such applicable Class shall be re-allocated from Lenders holding such applicable Revolving Commitments to Lenders holding Extended Revolving Commitments in accordance with the terms of such amendment; **provided** that such participation interests shall, upon receipt thereof by the relevant Lenders holding such applicable Revolving Commitments, be deemed to be participation interests in respect of such applicable Revolving Commitments and the terms of such participation interests (including, without limitation, the commission applicable thereto) shall be adjusted accordingly.

(d) In connection with any Extension, the Borrower shall provide the Administrative Agent at least five Business Days (or such shorter period as may be agreed by the Administrative Agent) prior written notice thereof, and shall agree to such procedures (including, without limitation, regarding timing, rounding and other adjustments and to ensure reasonable administrative management of the credit facilities hereunder after such Extension), if any, as may be established by, or acceptable to, the Administrative Agent, in each case acting reasonably to accomplish the purposes of this **Section 2.21**.

(e) In the event that the Administrative Agent determines in its sole discretion that the allocation of Extended Term Loans or the Extended Revolving Commitments, in each case to a given Lender was incorrectly determined as a result of manifest administrative error in the receipt and processing of an Extension timely submitted by such Lender in accordance with the procedures set forth in the applicable Extension Offer, then the Administrative Agent, the Borrower and such affected Lender may (and hereby are authorized to), in their sole discretion and without the consent of any other Lender, enter into an amendment to this Agreement and the other Loan Documents (each, a "**Corrective Extension Agreement**") within 15 days following the effective date of such applicable Extension, as the case may be, which Corrective Extension Agreement shall (i) provide for the extension of Term Loans under the original Class of Term Loans, or Revolving Commitments, Incremental Term Loan Commitments or Incremental Revolving Commitments (and related exposure) of any Class, as the case may be, in such amount as is required to cause such Lender to hold Extended Term Loans or Extended Revolving Commitments (and related revolving credit exposure) of the applicable Extension series into which such other Term Loans or commitments were initially extended, as the case may be, in the amount such Lender would have held had such administrative error not occurred and had such Lender received the minimum allocation of the applicable Loans or Commitments to which it was entitled under the terms of such Extension, in the absence of such error, (ii) be subject to the satisfaction of such conditions as the Administrative Agent, the Borrower and such Lender may agree, and (iii) effect such other amendments of the type (with appropriate reference and nomenclature changes) as the Administrative Agent and the Borrower shall reasonably determine are necessary to give effect to the foregoing provisions of this **Section 2.21(e)**.

(f) This **Section 2.21** shall supersede any provisions in **Section 2.18** or **Section 9.02** to the contrary.

SECTION 2.22. **Defaulting Lenders**.

(a) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by Requirements of Law:

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in **Section 9.02**.

(ii) Reallocation of Payments. Any amount paid by the Borrower or otherwise received by the Administrative Agent for the account of a Defaulting Lender under this Agreement (whether on account of principal, interest, fees, indemnity payments or other amounts) will not be paid or distributed to such Defaulting Lender, but will instead be, applied by the Administrative Agent, to the fullest extent permitted by law, to the making of payments from time to time in the following order of priority: first to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent under this Agreement, second to the payment of any amounts owing by such Defaulting Lender to the Issuing Banks (pro rata as to the respective amounts owing to each of them) under this Agreement, third to the payment of post-default interest and then-current interest due and payable to the Lenders hereunder other than Defaulting Lenders, ratably among them in accordance with the amounts of such interest then due and payable to them, fourth to the payment of fees then due and payable to the Non-Defaulting Lenders hereunder, ratably among them in accordance with the amounts of such fees then due and payable to them, fifth to pay principal and unreimbursed LC Disbursements then due and payable to the Non-Defaulting Lenders hereunder ratably in accordance with the amounts thereof then due and payable to them, sixth to the ratable payment of other amounts then due and payable to the Non-Defaulting Lenders and seventh after the termination of the Commitments and payment in full of all obligations of the Borrower hereunder, to pay amounts owing under this Agreement to such Defaulting Lender or as a court of competent jurisdiction may otherwise direct; **provided** that, if such payment is the payment of the principal amount of any Loan or the payment of any amount constituting LC Disbursements, such payment shall be applied solely to pay the relevant Loans of, and unreimbursed LC Disbursements owed to, the relevant non-Defaulting Lenders or Issuing Banks prior to being applied in the manner set forth in this **Section 2.22(a)(ii)**. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to **Section 2.05(j)** shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees. A Defaulting Lender (x) shall not be entitled to receive or accrue any commitment fee pursuant to **Section 2.12(a)** for any period during which such Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to such Defaulting Lender) and (y) shall not be entitled to receive or accrue any Letter of Credit fees as provided in **Section 2.12(b)** for any period during which such Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to such Defaulting Lender).

(iv) Reallocation of Applicable Percentages to Reduce Fronting Exposure. If a Lender becomes, and during the period it remains, a Defaulting Lender, the following provisions shall apply with respect to any outstanding LC Exposure of such Defaulting Lender:

(A) the LC Exposure of such Defaulting Lender will, subject to the limitation in the proviso below, automatically be reallocated (effective on the day such

Lender becomes a Defaulting Lender) among the Non-Defaulting Lenders of the applicable Class pro rata in accordance with their respective Commitments of such Class; **provided** that (a) the sum of each Non-Defaulting Lender's total Revolving Exposure and total LC Exposure may not in any event exceed the Revolving Commitment of such Non-Defaulting Lender as in effect at the time of such reallocation and (b) neither such reallocation nor any payment by a Non-Defaulting Lender pursuant thereto will constitute a waiver or release of any claim the Borrower, the Administrative Agent, any Issuing Bank or any other Lender may have against such Defaulting Lender or cause such Defaulting Lender to be a Non-Defaulting Lender, and

(B) to the extent that any portion (the "**unreallocated portion**") of the Defaulting Lender's LC Exposure cannot be so reallocated, whether by reason of the proviso in **clause (A)** above or otherwise, the Borrower will, not later than two Business Days after demand by the Administrative Agent (at the direction of any Issuing Bank), (a) Cash Collateralize the obligations of the Borrower to the applicable Issuing Banks in respect of such LC Exposure in an amount at least equal to the aggregate amount of the unreallocated portion of such LC Exposure, or (b) make other arrangements satisfactory to the Administrative Agent, and to the applicable Issuing Banks, in their sole discretion, to protect them against the risk of non-payment by such Defaulting Lender.

(b) Defaulting Lender Cure. If the Borrower and the Administrative Agent agree in writing in their sole discretion that a Lender should no longer be deemed to be a Defaulting Lender (**provided** that, solely with respect to a Defaulting Lender that is a Revolving Lender, each Issuing Bank must also so agree in writing in their sole discretion), the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which shall include arrangements with respect to the return to the Borrower of any Cash Collateral), such Lender will, to the extent applicable, purchase that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit to be held on a pro rata basis by the Lenders in accordance with their Applicable Percentages (without giving effect to **Section 2.22(a)(iv)**), whereupon that Lender will cease to be a Defaulting Lender; **provided** that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and **provided**, **further**, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Non-Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

SECTION 2.23. **Illegality**. If after the Effective Date it becomes unlawful, or any Governmental Authority after the Effective Date has asserted that it is unlawful, for any Lender to make, maintain or fund Loans whose interest is determined by reference to the Adjusted LIBO Rate, or to determine or charge interest rates based upon the Adjusted LIBO Rate, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, (i) any obligation of such Lender to make or continue Eurocurrency Loans or to convert ABR Loans to Eurocurrency Loans shall be suspended and (ii) if such notice asserts the illegality of such Lender making or maintaining ABR Loans the interest rate on which is determined by reference to the Adjusted LIBO Rate component of the Alternate Base Rate, the interest rate on such ABR Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Adjusted LIBO Rate component of the Alternate Base Rate, in each case until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (x) the Borrower shall, upon three Business Days' notice from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Eurocurrency Loans denominated in Dollars

of such Lender to ABR Loans (the interest rate on which ABR Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Adjusted LIBO Rate component of the Alternate Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurocurrency Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurocurrency Loans, and (y) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Adjusted LIBO Rate, the Administrative Agent shall during the period of such suspension compute the Alternate Base Rate applicable to such Lender without reference to the Adjusted LIBO Rate component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Adjusted LIBO Rate. Each Lender agrees to notify the Administrative Agent and the Borrower in writing promptly upon becoming aware that it is no longer illegal for such Lender to determine or charge interest rates based upon the Adjusted LIBO Rate. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

SECTION 2.24. **Term Loan Exchange Notes.**

(a) The Borrower may by written notice to the Administrative Agent elect to offer (each, a "**Permitted Debt Exchange Offer**") to issue to Lenders holding Term Loans under this Agreement first priority senior secured notes and/or junior lien secured notes and/or unsecured notes (the "**Term Loan Exchange Notes**") in exchange for the Term Loans (each such exchange, a "**Permitted Debt Exchange**"); **provided** that such Term Loan Exchange Notes may not be in an aggregate principal amount (or accreted value) greater than the aggregate principal amount of Term Loans being exchanged plus unpaid accrued interest, fees and premiums (including tender premiums) (if any) thereon, defeasance costs, underwriting discounts and fees, commissions and expenses (including original issue discounts, closing payments, upfront fees or similar fees) in connection with the issuance of the Term Loan Exchange Notes plus additional amounts permitted to be incurred under **Section 6.01**. Each such notice shall specify the date (each, a "**Term Loan Exchange Effective Date**") on which the Borrower proposes that the Term Loan Exchange Notes shall be issued, which shall be a date not less than fifteen days after the date on which such notice is delivered to the Administrative Agent (or such shorter period as may be agreed by the Administrative Agent); **provided** that: (x) the Weighted Average Life to Maturity of such Term Loan Exchange Notes shall be equal to or greater than the then remaining Weighted Average Life to Maturity of the Term Loans being exchanged (it being understood that acceleration or mandatory repayment, prepayment, redemption or repurchase of such Term Loan Exchange Notes upon the occurrence of an event of default, a change in control, an event of loss or an asset disposition shall not be deemed to constitute a change in the stated final maturity thereof); (y) all other terms and conditions (other than interest rates (including through fixed interest rates or payment-in-kind interest), interest rate margins, rate floors, fees, AHYDO Catch-Up Payments, funding discounts, original issue discounts, closing payments, maturity, currency types and denominations, and redemption or prepayment terms and premiums) applicable to such Term Loan Exchange Notes shall reflect market terms and conditions, when taken as a whole, at the time of Incurrence (as determined in good faith by the Borrower or not materially more restrictive on the Borrower and its Restricted Subsidiaries than the terms of this Agreement, when taken as a whole); **provided** that the Term Loan Exchange Notes may have the benefit of any Previously Absent Financial Maintenance Covenant if the Administrative Agent has been given prompt written notice thereof and this Agreement shall have been amended to include such Previously Absent Financial Maintenance Covenant; and (z) the obligations in respect of the Term Loan Exchange Notes (A) shall not be secured by Liens on any asset of the Borrower and the Restricted Subsidiaries other than assets constituting Collateral, (B) if such Term Loan Exchange Notes are secured, the Liens on Collateral securing such Term Loan Exchange Notes shall rank equal in right of payment and priority (but without regard to the control of remedies) with, or junior in right of payment and priority to, the Liens on the Collateral securing the Secured Obligations and all security therefor shall be granted pursuant to

documentation that is not more restrictive than the Security Documents in any material respect taken as a whole (as determined by the Borrower) and the representative for such Term Loan Exchange Notes shall enter into a Customary Intercreditor Agreement (it being understood that junior Liens are not required to be equal to other junior Liens, and that Indebtedness secured by junior Liens may be secured by Liens that are equal to, or junior in priority to, other Liens that are junior to the Liens securing the Secured Obligations), or (C) shall not be incurred or guaranteed by any Restricted Subsidiary unless such Restricted Subsidiary is a Loan Party which shall have previously or substantially concurrently guaranteed or borrowed such Term Loans being exchanged.

(b) The Borrower shall offer to issue Term Loan Exchange Notes in exchange for the Class of Term Loans to all Lenders holding such Class of Term Loans (other than any Lender that, if requested by the Borrower, is unable to certify that it is (i) a "qualified institutional buyer" (as defined in Rule 144A under the Securities Act), (ii) an institutional "accredited investor" (as defined in Rule 501 under the Securities Act) or (iii) not a "U.S. person" (as defined in Rule 902 under the Securities Act) on a pro rata basis, and such Lenders may choose to accept or decline to receive such Term Loan Exchange Notes in their sole discretion. Any such Term Loans exchanged for Term Loan Exchange Notes shall be automatically and immediately, without further action by any Person, cancelled on the Term Loan Exchange Effective Date for all purposes of this Agreement (and, if requested by the Administrative Agent, any applicable exchanging Lender shall execute and deliver to the Administrative Agent an Assignment and Acceptance, or such other form as may be reasonably requested by the Administrative Agent, in respect thereof pursuant to which the respective Lender assigns its interest in the Term Loans being exchanged pursuant to the Permitted Debt Exchange to the Borrower for immediate cancellation), and accrued and unpaid interest on such Term Loans shall be paid to the exchanging Lenders on the Term Loan Exchange Effective Date, or, if agreed to by the Borrower and the Administrative Agent, the next scheduled date interest is due with respect to such Term Loans (with such interest accruing until the date of consummation of such Permitted Debt Exchange). For the avoidance of doubt, it is understood and agreed that no existing Lender will have any obligation to accept any Permitted Debt Exchange Offer or participate in any Permitted Debt Exchange.

(c) If the aggregate principal amount of all Term Loans (calculated on the face amount thereof) of a given Class tendered by Lenders in respect of the relevant Permitted Debt Exchange Offer (with no Lender being permitted to tender a principal amount of Term Loans which exceeds the principal amount thereof of the applicable Class actually held by it) shall exceed the maximum aggregate principal amount of Term Loans of such Class offered to be exchanged by the Borrower pursuant to such Permitted Debt Exchange Offer, then the Borrower shall exchange Term Loans under the relevant Class tendered by such Lenders ratably up to such maximum based on the respective principal amounts so tendered, or, if such Permitted Debt Exchange Offer shall have been made with respect to multiple Classes without specifying a maximum aggregate principal amount offered to be exchanged for each Class, and the aggregate principal amount of all Term Loans (calculated on the face amount thereof) of all Classes tendered by Lenders in respect of the relevant Permitted Debt Exchange Offer (with no Lender being permitted to tender a principal amount of Term Loans which exceeds the principal amount thereof actually held by it) shall exceed the maximum aggregate principal amount of Term Loans of all relevant Classes offered to be exchanged by the Borrower pursuant to such Permitted Debt Exchange Offer, then the Borrower shall exchange Term Loans across all Classes subject to such Permitted Debt Exchange Offer tendered by such Lenders ratably up to such maximum amount based on the respective principal amounts so tendered.

(d) With respect to all Permitted Debt Exchanges effected by the Borrower pursuant to this **Section 2.24**, unless waived by the Borrower, such Permitted Debt Exchange Offer shall be made for not less than $50,000,000 in aggregate principal amount of Term Loans; **provided** that subject to the foregoing the Borrower may at its election specify (A) as a condition (a "**Minimum Tender Condition**")

to consummating any such Permitted Debt Exchange that a minimum amount (to be determined and specified in the relevant Permitted Debt Exchange Offer in the Borrower's discretion) of Term Loans of any or all applicable Classes be tendered and/or (B) as a condition (a "**Maximum Tender Condition**") to consummating any such Permitted Debt Exchange that no more than a maximum amount (to be determined and specified in the relevant Permitted Debt Exchange Offer in the Borrower's discretion) of Term Loans of any or all applicable Classes will be accepted for exchange. The Administrative Agent and the Lenders hereby acknowledge and agree that this **Section 2.24** shall supersede any provisions of **Section 2.09**, **Section 2.11** and **Section 9.02** to the contrary, waive the requirements of any other provision of this Agreement or any other Loan Document that may otherwise prohibit the Incurrence of any Indebtedness expressly provided for by this **Section 2.24** and hereby agree not to assert any Default or Event of Default in connection with the implementation of any such Permitted Debt Exchange or any other transaction contemplated by this **Section 2.24**.

(e) In connection with each Permitted Debt Exchange, the Borrower shall provide the Administrative Agent at least five Business Days' (or such shorter period as may be agreed by the Administrative Agent) prior written notice thereof, and the Borrower and the Administrative Agent, acting reasonably, shall mutually agree to such procedures as may be necessary or advisable to accomplish the purposes of this **Section 2.24**; **provided** that the terms of any Permitted Debt Exchange Offer shall provide that the date by which the relevant Lenders are required to indicate their election to participate in such Permitted Debt Exchange shall be not less than five Business Days following the date on which the Permitted Debt Exchange Offer is made. The Borrower shall provide the final results of such Permitted Debt Exchange to the Administrative Agent no later than one Business Day prior to the proposed date of effectiveness for such Permitted Debt Exchange and the Administrative Agent shall be entitled to conclusively rely on such results.

(f) The Borrower shall be responsible for compliance with, and hereby agrees to comply with, all applicable securities and other laws in connection with each Permitted Debt Exchange, it being understood and agreed that (x) neither the Administrative Agent nor any Lender assumes any responsibility in connection with the Borrower's compliance with such laws in connection with any Permitted Debt Exchange and (y) each Lender shall be solely responsible for its compliance with any applicable "insider trading" laws and regulations to which such Lender may be subject under the Exchange Act.

SECTION 2.25. **Appointment of Borrower**. Each of the Loan Parties hereby appoints the Borrower to act as its agent for all purposes of this Agreement, the other Loan Documents and all other documents and electronic platforms entered into in connection herewith and agrees that (a) the Borrower may execute such documents and provide such authorizations on behalf of such Loan Parties as the Borrower deems appropriate in its sole discretion and each Loan Party shall be obligated by all of the terms of any such document and/or authorization executed on its behalf, (b) any notice or communication delivered by the Administrative Agent, an Issuing Bank or a Lender to the Borrower shall be deemed delivered to each Loan Party and (c) each of the Administrative Agent, the Issuing Banks and the Lenders may accept, and be permitted to rely on, any document, authorization, instrument or agreement executed by the Borrower on behalf of each of the Loan Parties.

ARTICLE III

Representations and Warranties

The Borrower represents and warrants to the Administrative Agent and the Lenders that:

SECTION 3.01. **Organization; Powers**. The Borrower and each of the Restricted Subsidiaries (a) is duly organized, validly existing and, if applicable, with respect to the Borrower and the Subsidiary Loan Parties, in good standing (or similar status, to the extent such status exists under the laws of any such jurisdiction) under the laws of the jurisdiction of its organization, (b) has all requisite power and authority to own its property and assets necessary for the conduct of business, except where the failure to have such power and authority would not reasonably be expected to have a Material Adverse Effect, (c) is qualified to do business in each jurisdiction where such qualification is required, except where the failure so to qualify would not reasonably be expected to have a Material Adverse Effect, and (d) has the power and authority to execute, deliver and perform its obligations under each of the Loan Documents to which it is or will be a party and, in the case of the Borrower, to borrow and otherwise obtain credit hereunder.

SECTION 3.02. **Authorization**. The execution, delivery and performance by each Loan Party of each of the Loan Documents to which it is a party, and the Borrowings hereunder (a) have been duly authorized by all organizational action required to be obtained by the Loan Parties and (b) will not (i) (A) violate any provision of any Requirement of Law or violate the Organizational Documents of any Loan Party, (B) violate any applicable order of any court or any rule, regulation or order of any Governmental Authority or (C) violate, be in conflict with, result in a breach of or constitute (alone or with notice or lapse of time or both) a default under, give rise to a right of or result in any cancellation or acceleration of any right or obligation (including any payment) or to a loss of a benefit under any indenture, certificate of designation for preferred stock, agreement or any other instrument to which any Loan Party is a party or by which any of them or their property is or may be bound, where any such conflict, violation, breach or default referred to in this **clause (i)** would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, or (ii) result in the creation or imposition of any Lien upon or with respect to any property or assets now owned or hereafter acquired by any Loan Party, other than the Liens created by the Loan Documents and Liens permitted by **Section 6.02**.

SECTION 3.03. **Enforceability**. This Agreement has been duly executed and delivered by the Borrower and constitutes, and each other Loan Document when executed and delivered by each Loan Party that is party thereto will constitute, a legal, valid and binding obligation of such Loan Party enforceable against each such Loan Party in accordance with its terms, subject to (i) the effects of bankruptcy, insolvency, moratorium, reorganization, fraudulent conveyance or other similar laws affecting creditors' rights generally, (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law) and (iii) implied covenants of good faith and fair dealing.

SECTION 3.04. **Governmental Approvals**. No action, consent or approval of, registration or filing with or any other action by any Governmental Authority is or will be required in connection with the Financing Transactions, except for (a) the filing of Uniform Commercial Code financing statements, (b) filings with the United States Patent and Trademark Office and the United States Copyright Office, (c) recordation of the Mortgages and other Liens granted under the Loan Documents, (d) such as have been made or obtained and are in full force and effect and (e) such other actions, consents, approvals, registrations or filings with respect to which the failure to be obtained or made would not reasonably be expected to have a Material Adverse Effect.

SECTION 3.05. **Financial Statements**. The Borrower has heretofore furnished to the Administrative Agent (for delivery to the Lenders) the audited consolidated balance sheets of the Borrower as at December 28, 2019 and January 2, 2021 and the related audited consolidated statements of net income, comprehensive income, changes in total deficit and cash flows of the Borrower for the fiscal years ended December 28, 2019 and January 2, 2021, which have been prepared in accordance with GAAP applied consistently throughout the periods involved except to the extent provided in the notes thereto and present fairly in all material respects the financial position and results of operations of the Borrower and its Subsidiaries, as of and for the periods ended on such dates set forth on such financial statements.

SECTION 3.06. **No Material Adverse Change or Material Adverse Effect**. Since January 2, 2021, there have been no events, developments or circumstances that have had or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 3.07. **Title to Properties**. The Borrower and the Restricted Subsidiaries have good and valid record fee simple title to, or valid leasehold interests in, or easements or other limited property interests in, all its properties and assets (excluding Intellectual Property), except for minor defects in title that do not interfere with its ability to conduct its business as currently conducted, to utilize such properties and assets for their intended purposes or except where the failure to have such title, interests or easements would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. All such properties and assets held in fee simple are free and clear of Liens, other than Liens permitted by **Section 6.02**.

SECTION 3.08. **Subsidiaries**. **Schedule 3.08** sets forth as of the Effective Date the name and jurisdiction of incorporation, formation or organization of each direct and indirect Subsidiary of the Borrower. Except as set forth on **Schedule 3.08**, as of the Effective Date, all of the issued and outstanding Equity Interests of each Subsidiary of the Borrower is owned directly by the Borrower or by a Subsidiary of the Borrower.

SECTION 3.09. Litigation; Compliance with Laws.

(a) As of the Effective Date, there are no actions, suits or proceedings at law or in equity or in arbitration or, to the knowledge of the Borrower, investigations by or on behalf of any Governmental Authority now pending, or, to the knowledge of the Borrower, threatened in writing against or affecting the Borrower or any of its Restricted Subsidiaries or any business, property or rights of any such Person (i) that involve any Loan Document or the Financing Transactions or (ii) that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. As of the date of any Borrowing after the Effective Date, there are no actions, suits or proceedings at law or in equity or in arbitration or, to the knowledge of the Borrower, investigations by or on behalf of any Governmental Authority now pending, or, to the knowledge of the Borrower, threatened in writing against or affecting the Borrower or any of its Restricted Subsidiaries or any business, property or rights of any such Person which would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) None of the Borrower, the Restricted Subsidiaries or their respective properties or assets is in violation of (nor, to the knowledge of the Borrower, will the continued operation of their material properties and assets as currently conducted violate) any Requirement of Law (including any zoning, building, ordinance, code or approval or any building permit) or, any restriction on recordation of record or agreement affecting any Mortgaged Property, or is in default with respect to any judgment, writ, injunction or decree of any Governmental Authority, in any such case where such violation or default would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 3.10. **Federal Reserve Regulations**.

(a) None of the Borrower or the Restricted Subsidiaries is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying Margin Stock.

(b) No part of the proceeds of any Loan will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, (i) to purchase or carry Margin Stock or to extend credit to others for the purpose of purchasing or carrying Margin Stock or to refund indebtedness originally incurred for such purpose or (ii) for any purpose that would result in a violation of Regulation T, U or X of the Federal Reserve.

SECTION 3.11. **Investment Company Act**. None of the Loan Parties is an "investment company" within the meaning of the Investment Company Act of 1940, as amended from time to time.

SECTION 3.12. **Use of Proceeds**. The Borrower will use the proceeds of (a) the Initial Term Loans borrowed hereunder on the Effective Date, together with the proceeds from borrowings of a portion of the Revolving Facility on the Effective Date, the proceeds of the Senior Secured Notes and cash on hand, to (i) to consummate the Transactions and (ii) pay Transaction Costs and (b) the Revolving Loans and Letters of Credit for working capital requirements and other general corporate purposes of the Borrower or its Subsidiaries, including the financing of Acquisitions, other Investments and Restricted Payments on account of the Equity Interests of the Borrower (or any Parent Entity thereof), in each case permitted hereunder.

SECTION 3.13. **Taxes**.

(a) Other than as would not be, individually or in the aggregate, reasonably expected to have a Material Adverse Effect, each of the Borrower and each of its Restricted Subsidiaries (i) has timely filed or caused to be timely filed all federal, state, local and non-U.S. Tax returns required to have been filed by it and (ii) has timely paid or caused to be timely paid all Taxes due and payable by it (whether or not shown on a Tax return and including in its capacity as a withholding agent), except Taxes that are being contested in good faith by appropriate proceedings in accordance with **Section 5.04** and for which the Borrower or its Restricted Subsidiaries (as the case may be) has set aside on its books adequate reserves in accordance with GAAP.

(b) Other than as would not be, individually or in the aggregate, reasonably expected to have a Material Adverse Effect: as of the Effective Date, with respect to each of the Borrower and each of its Restricted Subsidiaries, there are no claims being asserted in writing with respect to any Taxes and no audits or other proceedings with respect to Taxes.

SECTION 3.14. **No Material Misstatements**.

(a) The written factual information (other than information of a general economic or industry specific nature, projections and forward-looking information) (the "**Information**") concerning the Borrower, the Restricted Subsidiaries, the Transactions and any other transactions contemplated hereby included in the Information Memorandum or otherwise prepared by or on behalf of the foregoing or their representatives and made available to any Lenders or the Administrative Agent on or before the Effective Date in connection with the Financing Transactions, when taken as a whole (giving effect to all supplements and updates thereto), and taken together with any reports, proxy statements and other materials filed by the Borrower or any Subsidiary with the SEC, or any Governmental Authority succeeding to any or all of the functions of the SEC, as the case may be, is or will be at the time furnished correct in all material respects and does not or will not at the time furnished contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements were made.

(b) Any projections and other forward-looking information prepared by or on behalf of the Borrower or any of its representatives and that have been made available to any Lenders or the Administrative Agent on or before the Effective Date in connection with the Financing Transactions, together with all supplements and updates thereto, have been prepared in good faith based upon assumptions believed by the Borrower to be reasonable as of the Effective Date; it being understood that such projections and other forward-looking information are not to be viewed as facts and are subject to significant uncertainties and contingencies, many of which are beyond the control of the Loan Parties, that actual results may differ from such projections and other forward-looking information and that such differences may be material and that no assurance can be given that such projections and other forward-looking information will be realized.

SECTION 3.15. **ERISA**.

(a) Except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, each Plan is in compliance with the applicable provisions of ERISA, the Code and other federal, state and foreign laws.

(b) Except as would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect, (i) no ERISA Event has occurred or is reasonably expected to occur, (ii) neither the Borrower nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability under Title IV of ERISA with respect to any Plan (other than premiums due and not delinquent under Section 4007 of ERISA), (iii) neither the Borrower nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Sections 4201 or 4243 of ERISA with respect to a Multiemployer Plan and (iv) neither the Borrower nor any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or 4212(c) of ERISA.

SECTION 3.16. **Environmental Matters**. Except with respect to any matters that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect: (i) the Borrower and each Restricted Subsidiary, and their respective operations and properties, (a) are in compliance with all Environmental Laws and have obtained, maintained and are in compliance with all permits, licenses and other approvals required under any Environmental Law, (b) have not become subject to any Environmental Liability, and (c) have not received written notice of any claim with respect to any Environmental Liability, (ii) to the knowledge of the Borrower and each Restricted Subsidiary, there are no circumstances, conditions or occurrences that would reasonably be expected to give rise to any Environmental Liability of the Borrower or any Restricted Subsidiary, or with respect to their respective operations and properties, and (iii) to the knowledge of the Borrower or any Restricted Subsidiary, no other Person has caused, or permitted to occur, any Release, or treated or disposed of, or arranged for treatment or disposal of, any Hazardous Materials.

SECTION 3.17. **Security Documents**.

(a) Valid Liens. Each Security Document delivered pursuant to **Sections 4.01**, **5.10**, **5.11** and **5.14** will, upon execution and delivery thereof, be effective to create in favor of the Administrative Agent for the benefit of the Secured Parties, legal, valid and enforceable Liens on, and security interests in, the Collateral described therein, and (i) when financing statements and other filings in appropriate form are filed in, or recorded by, the offices required by the applicable Requirement of Law and (ii) upon the taking of possession by the Administrative Agent of such Collateral with respect to which a security interest may be perfected only by possession (which possession shall be given to the Administrative Agent to the extent possession by the Administrative Agent is required by the Loan Documents), the Liens created by the Security Documents shall constitute perfected Liens on, and

security interests in, all right, title and interest of the grantors in such Collateral to the extent perfection can be obtained by filing and recording financing statements or possession (to the extent possession is required by the Loan Documents), as the case may be, in each case prior to all Liens, and subject to no Liens, in each case, other than Liens permitted under **Section 6.02**, subject to (i) the effects of bankruptcy, insolvency, moratorium, reorganization, fraudulent conveyance or other similar laws affecting creditors' rights generally, (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law), and (iii) implied covenants of good faith and fair dealing.

(b) PTO Filing; Copyright Office Filing. When the Intellectual Property security agreements are properly filed and recorded in the United States Patent and Trademark Office and the United States Copyright Office, to the extent such filings and recordations together with the financing statements filed in the offices required by the applicable Requirement of Law may perfect such interests, the Liens created by the Security Agreement and such Intellectual Property security agreements shall constitute fully perfected Liens on, and security interests in, all right, title and interest of the grantors thereunder in Patents and Trademarks (each as defined in the Security Agreement) registered or applied for with the United States Patent and Trademark Office or Copyrights (as defined in the Security Agreement) registered with the United States Copyright Office, as the case may be, in each case free and clear of Liens other than Liens permitted under **Section 6.02** (it being understood that subsequent recordings in the United States Patent and Trademark Office and the United States Copyright Office may be necessary to establish a Lien on Patents, Trademarks and Copyrights acquired, registered or applied for by the grantors thereof after the Effective Date).

(c) Mortgages. Upon recording thereof in the appropriate recording office, each Mortgage is effective to create, in favor of the Administrative Agent, for the benefit of the Secured Parties, legal, valid and enforceable perfected Liens on, and security interest in, all of the Loan Parties' right, title and interest in and to the Mortgaged Properties thereunder and the proceeds thereof, prior to all Liens, other than the Liens permitted under **Section 6.02**, subject to (i) the effects of bankruptcy, insolvency, moratorium, reorganization, fraudulent conveyance or other similar laws affecting creditors' rights generally, (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law) and (iii) implied covenants of good faith and fair dealing.

SECTION 3.18. **Solvency**. After giving effect to the consummation of the Transactions, on the Effective Date, the Borrower, together with its Restricted Subsidiaries on a consolidated basis, is Solvent.

SECTION 3.19. **Labor Matters**. Except as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect: (a) there are no strikes or other labor disputes pending or threatened against the Borrower or any of the Restricted Subsidiaries; (b) the hours worked and payments made to employees of the Borrower and the Restricted Subsidiaries have not been in violation of the Fair Labor Standards Act or any other Requirements of Law dealing with such matters; (c) all payments due from the Borrower or any of the Restricted Subsidiaries or for which any claim may be made against the Borrower or any of the Restricted Subsidiaries, on account of wages and employee health and welfare insurance and other benefits have been paid or accrued as a liability on the books of the Borrower or such Restricted Subsidiary to the extent required by GAAP; and (d) the Borrower and the Restricted Subsidiaries are in compliance with all Requirements of Law, agreements, policies, plans and programs relating to employment and employment practices.

SECTION 3.20. **Senior Debt**. The Loan Document Obligations constitute "Senior Debt" (or the equivalent thereof) and "Designated Senior Debt" (or the equivalent thereof) under the documentation governing any Indebtedness that is subordinated in right of payment to the Loan Document Obligations.

SECTION 3.21. **Intellectual Property; Licenses, Etc.** The Borrower and its Restricted Subsidiaries own, license or possess the valid right to use, all Intellectual Property used in or reasonably necessary for the operation of their businesses as currently conducted, and, without conflict with the Intellectual Property rights of any Person, in each case, except, individually or in the aggregate, as would not reasonably be expected to have a Material Adverse Effect; **provided**, **however**, to the extent the foregoing representation and warranty relates to infringement, misappropriation or a violation of Intellectual Property rights held by a Person, it shall be considered qualified by the knowledge of the Borrower or any Restricted Subsidiary. To the knowledge of the Borrower, no Intellectual Property, advertising, product, process, method, substance, part or other material used by the Borrower or any Restricted Subsidiary, or the operation of its business as currently conducted, infringes upon, misappropriates or violates any Intellectual Property rights held by any Person except for such infringements, misappropriations or violations, individually or in the aggregate, which would not reasonably be expected to have a Material Adverse Effect. No claim or litigation regarding any of the Intellectual Property of the Borrower or any Restricted Subsidiary is pending or, to the knowledge of the Borrower, threatened in writing against the Borrower or any Restricted Subsidiary, which claim or litigation, individually or in the aggregate, if subject to an adverse ruling against the Borrower or any Restricted Subsidiary, would reasonably be expected to have a Material Adverse Effect.

SECTION 3.22. **Anti-Corruption, Anti-Money Laundering and Economic Sanctions Laws**.

(a) The Borrower has implemented and maintains in effect policies and procedures reasonably designed to ensure compliance by the Borrower, its Restricted Subsidiaries and their respective directors, officers and employees with Anti-Corruption Laws and applicable Sanctions. To the extent applicable, each of the Borrower and its Restricted Subsidiaries and, to the knowledge of the Borrower, each of their respective officers, directors and employees, is in compliance, in all material respects, with any applicable Anti-Corruption Laws or any applicable Sanctions that in each case are binding on them. None of (A) the Borrower, its Restricted Subsidiaries or, to the knowledge of the Borrower, any of their respective officers, directors or employees or (B) to the knowledge of the Borrower, any agent of the Borrower or any Restricted Subsidiary that will act in any capacity in connection with or benefit from the credit facilities established hereby, is an Embargoed Person.

(b) No part of the proceeds of the Loans will be used for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of any Anti-Corruption Laws.

(c) No part of the proceeds of the Loans will be used to lend, contribute or otherwise make available such proceeds to any Person for the purpose of financing the activities of or with any Person or in any country or territory that, at the time of funding, is an Embargoed Person, except to the extent permitted for a Person required to comply with Sanctions.

ARTICLE IV

Conditions

SECTION 4.01. **Effective Date**. The obligations of the Lenders to make Loans and of each Issuing Bank to issue Letters of Credit hereunder shall not become effective until the date on which each of the following conditions shall be satisfied (or waived in accordance with **Section 9.02**):

(a) The Administrative Agent (or its counsel) shall have received from each party hereto either (i) a counterpart of this Agreement signed on behalf of such party or (ii) written evidence satisfactory to the Administrative Agent (which may include facsimile or other electronic transmission of a signed counterpart of this Agreement) that such party has signed a counterpart of this Agreement.

(b) The Administrative Agent shall have received a written opinion (addressed to the Administrative Agent and the Lenders and dated the Effective Date) of each of (i) Simpson Thacher & Bartlett LLP, counsel for the Loan Parties, and (ii) Hunton Andrews Kurth LLP, special Virginia counsel for the Borrower. Each such opinion shall be in form and substance reasonably satisfactory to the Administrative Agent. The Borrower hereby requests such counsel to deliver such opinions.

(c) The Administrative Agent shall have received a certificate of each Loan Party, dated the Effective Date, substantially in the form of **Exhibit F** or such other form reasonably acceptable to the Administrative Agent with appropriate insertions, executed by any Responsible Officer of such Loan Party, and including or attaching the documents referred to in **paragraph (d)** of this Section.

(d) The Administrative Agent shall have received a copy of (i) each Organizational Document of each Loan Party certified, to the extent applicable, as of a recent date by the applicable Governmental Authority, (ii) signature and, to the extent such concept exists, incumbency certificates of the Responsible Officers of each Loan Party executing the Loan Documents to which it is a party, (iii) resolutions of the Board of Directors and/or similar governing bodies of each Loan Party approving and authorizing the execution, delivery and performance of Loan Documents to which it is a party, certified as of the Effective Date by its secretary, an assistant secretary or a Responsible Officer as being in full force and effect without modification or amendment and (iv) to the extent such concept exists in the applicable jurisdiction, a good standing certificate from the applicable Governmental Authority of each Loan Party's jurisdiction of incorporation, organization or formation.

(e) The Administrative Agent shall have received or, upon the initial borrowings on the Effective Date, will receive, all fees and other amounts previously agreed in writing by the Joint Bookrunners and the Borrower to be due and payable on the Effective Date, including, to the extent invoiced at least two Business Days prior to the Effective Date, reimbursement or payment of all reasonable out-of-pocket expenses (including reasonable fees, charges and disbursements of counsel) required to be so reimbursed or paid (which amounts may be offset against the proceeds of the initial Credit Extensions).

(f) The Collateral and Guarantee Requirement shall have been satisfied and the Administrative Agent shall have received a completed Perfection Certificate dated the Effective Date and signed by a Responsible Officer of the Borrower, together with all attachments contemplated thereby and none of such Collateral shall be subject to any other pledges, security interests or mortgages except for Liens permitted by **Section 6.02**; **provided** that if, notwithstanding the use by the Borrower of commercially reasonable efforts to cause the Collateral and Guarantee Requirement to be satisfied on the Effective Date, the requirements thereof (other than (a) the execution and delivery of the Loan Guaranty and the Security Agreement by the Loan Parties, (b) creation of and perfection of security interests in the Equity Interests of the Borrower's Domestic Subsidiaries that are not Excluded Subsidiaries and (c) delivery of Uniform Commercial Code financing statements with respect to perfection of security interests in the assets of the Loan Parties that may be perfected by the filing of a financing statement under the Uniform Commercial Code) are not satisfied as of the Effective Date, the satisfaction of such requirements shall not be a condition to the availability of the initial Loans on the Effective Date (but shall be required to be satisfied as promptly as practicable after the Effective Date and in any event within a period specified therefor in **Schedule 5.14** or such later date as the Administrative Agent and the Borrower may mutually agree).

(g) The Arrangers shall have received the financial statements of the Borrower as described in **Section 3.05**.

(h) The Lenders shall have received a certificate from the chief financial officer of the Borrower in the form of **Exhibit G** certifying as to the Solvency of the Borrower and its Restricted Subsidiaries on a consolidated basis after giving effect to the Transactions.

(i)(A) The Administrative Agent shall have received at least three Business Days prior to the Effective Date all documentation and other information about the Loan Parties as shall have been reasonably requested in writing at least 10 Business Days prior to the Effective Date by the Administrative Agent or that the Administrative Agent shall have reasonably determined is required by United States bank regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation the USA PATRIOT Act and (B) at least three Business Days prior to the Effective Date, if the Borrower qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, it shall deliver a Beneficial Ownership Certification in relation to the Borrower.

(j) The Administrative Agent shall have received a customary insurance certificate in form and substance reasonably satisfactory to the Administrative Agent; **provided** that if, notwithstanding the use by the Borrower of commercially reasonable efforts to cause this condition to be satisfied on the Effective Date, the requirements of this clause (j) shall not be a condition to the availability of the initial Loans on the Effective Date (but shall be required to be satisfied as promptly as practicable after the Effective Date and in any event within the period specified therefor in Schedule 5.14 or such later date as the Administrative Agent and the Borrower may mutually agree).

(k) Prior to or substantially contemporaneously with the initial funding of Loans on the Effective Date, (i) the Existing Credit Agreement Refinancing shall have occurred and (ii) the Borrower shall have delivered to the trustee with respect to the Existing Senior Unsecured Notes a conditional notice of redemption of the Existing Senior Unsecured Notes in full, and, in each case, the Administrative Agent shall have received reasonably satisfactory evidence thereof.

(l) Prior to or substantially contemporaneously with the initial funding of Loans on the Effective Date, the issuance of the Senior Secured Notes in an aggregate principal amount of $500,000,000 shall have occurred, and the Administrative Agent shall have received reasonably satisfactory evidence thereof.

Notwithstanding the foregoing, the obligations of the Lenders to make Loans and of the Issuing Banks to issue Letters of Credit hereunder shall not become effective unless each of the foregoing conditions shall have been satisfied (or waived pursuant to **Section 9.02**) at or prior to 5:00 p.m., New York City time, on April 13, 2021 (and, in the event such conditions are not so satisfied or waived, the Commitments shall terminate at such time).

SECTION 4.02. **Each Credit Event**. The obligation of each Lender to make a Loan on the occasion of any Borrowing, and of each Issuing Bank to issue, amend, renew or extend any Letter of Credit (other than in connection with any Incremental Facilities (except to the extent set forth in **Section 2.20**), pursuant to **Section 2.21** or in connection with a Permitted Debt Exchange or Limited Condition Transaction, in each case, as so agreed by the Borrower and the applicable Lenders), is subject to receipt of the request therefor in accordance herewith and to the satisfaction of the following conditions:

(a) The representations and warranties of each Loan Party set forth in the Loan Documents shall be true and correct in all material respects on and as of the date of such Borrowing or the date of issuance, amendment, renewal or extension of such Letter of Credit, as the case may be before and after giving effect to such Borrowing or issuance, amendment, renewal or extension of such Letter of Credit and to the application of proceeds therefrom, as though made on and as of such date; **provided** that, to the extent that such representations and warranties specifically refer to an earlier date or period, they shall be true and correct in all material respects as of such earlier date or period; **provided further** that any representation and warranty that is qualified as to "materiality," "Material Adverse Effect" or similar language shall be true and correct in all respects on the date of such credit extension or on such earlier date, as the case may be (after giving effect to such qualification).

(b) At the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as the case may be, no Default or Event of Default shall have occurred and be continuing.

(c) The Administrative Agent shall have received a Notice of Borrowing in accordance with **Article II** hereof.

Each Borrowing (**provided** that a conversion or a continuation of a Borrowing shall not constitute a "Borrowing" for purposes of this Section) and each issuance, amendment, renewal or extension of a Letter of Credit shall be deemed to constitute a representation and warranty by the Borrower on the date thereof as to the matters specified in **paragraphs (a)** and **(b)** of this Section.

ARTICLE V

Affirmative Covenants

Until the Commitments shall have expired or been terminated, the principal of and interest on each Loan and all fees, expenses and other amounts (other than contingent amounts not yet due and liabilities under Secured Cash Management Obligations and Secured Swap Obligations) payable under any Loan Document shall have been paid in full and all Letters of Credit shall have expired or been terminated (or Cash Collateralized or backstopped pursuant to arrangements reasonably satisfactory to the relevant Issuing Bank) and all LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lenders that:

SECTION 5.01. **Financial Statements and Other Information**. The Borrower will furnish to the Administrative Agent, on behalf of each Lender:

(a) on or before the date that is 90 days after the end of each Fiscal Year of the Borrower (or such later date as may be permitted by the SEC for the filing of the Annual Report on Form 10-K by any Parent Entity of the Borrower with the SEC), an audited consolidated balance sheet and related audited consolidated statements of net income, comprehensive income, changes in total deficit and cash flows of the Borrower as of the end of and for such year, and related notes thereto, setting forth in each case in comparative form the figures for the previous Fiscal Year, all reported on by PricewaterhouseCoopers LLP or other independent public accountants of recognized national standing (without a "going concern" or like qualification and without qualification as to the scope of audit (other than a "going concern" statement solely with respect to, or expressly resulting solely from, an upcoming maturity date under the documentation governing any Indebtedness, (2) the activities, operations, financial results, assets or liabilities of any Unrestricted Subsidiaries or (3) any prospective breach of the Financial Covenant (or in the case of any Term Loan Facility, any such breach), and, for the avoidance of doubt, without modification as to the scope of audit);

(b) commencing with the financial statements for the fiscal quarter ending on or about March 31, 2021, on or before the date that is 45 days after the end of each of the first three fiscal quarters each Fiscal Year (or such later date as may be permitted by the SEC for the filing of the Form 10-Q by any Parent Entity of the Borrower with the SEC), an unaudited consolidated balance sheet and related unaudited consolidated statements of net income, comprehensive income and cash flows of the Borrower as of the end of and for such fiscal quarter and the then elapsed portion of the Fiscal Year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous Fiscal Year, all certified by a Financial Officer as presenting fairly in all material respects the financial position and results of operations and cash flows of the Borrower and its Subsidiaries on a consolidated basis as of the end of and for such fiscal quarter and such portion of the Fiscal Year in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes;

(c) simultaneously with the delivery of each set of consolidated financial statements referred to in **clauses (a)** and **(b)** above, the related consolidating financial statements reflecting adjustments necessary (as determined by the Borrower in good faith) to eliminate the accounts of Unrestricted Subsidiaries (if any) from such consolidated financial statements;

(d) simultaneously with any delivery of financial statements under **paragraph (a)** or **(b)** above, a certificate of a Financial Officer (i) certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (ii) setting forth (A) a reasonably detailed calculation of the Consolidated First Lien Leverage Ratio as at the end of such Test Period and (B) any additional reasonably detailed calculations required to establish whether the Borrower was in compliance with the provisions of the Financial Covenant as at the end of such Test Period, in each case beginning with the fiscal period ending on or about September 30, 2021 (but only if the Financial Covenant shall have been applicable at the end of such Test Period), (iii) in the case of financial statements delivered under **paragraph (a)** above, (A) beginning with the financial statements for the 2022 Fiscal Year, setting forth a reasonably detailed calculation of Excess Cash Flow for such Fiscal Year and (B) setting forth a reasonably detailed calculation of the Available Amount and Available Equity Amount as of the end of such Fiscal Year, and (iv) certifying that all information required to have been delivered to the Administrative Agent on or prior to the date of such certificate pursuant to Sections 5.05(b) and 5.11(c) and Sections 4.02(a), 4.02(f), 4.03(c) and 4.04 of the Security Agreement has been so delivered;

(e) [Reserved]

(f) promptly upon filing thereof, (x) copies of any annual, quarterly and other regular, material periodic and special reports (including on Form 10-K, 10-Q or 8-K but excluding any such other periodic or special reports that are filed in the ordinary course given the nature of the business of the Borrower and its Subsidiaries) and registration statements which the Borrower or any Restricted Subsidiary files with the SEC or any analogous Governmental Authority in any relevant jurisdiction (other than amendments to any registration statement (to the extent such registration statement, in the form it becomes effective, is delivered to the Administrative Agent for further delivery to the Lenders), exhibits to any registration statement and, if applicable, any registration statements on Form S-8 and other than any filing filed confidentiality with the SEC or any analogous Governmental Authority in any relevant jurisdiction) and (y) copies of all financial statements, proxy statements and material reports that the Borrower or any of the Restricted Subsidiaries shall send to the holders of any publicly issued debt of the Borrower and/or any of the Restricted Subsidiaries in their capacity as such holders (in each case to the extent not theretofore delivered to the Administrative Agent for further delivery to the Lenders pursuant to this Agreement); and

(g) promptly following any request therefor but subject to the limitations set forth in **Section 5.07** and **Section 9.12**, such other reasonably available information regarding the operations, business affairs and financial condition of the Borrower and its Restricted Subsidiaries, as the Administrative Agent on its own behalf or on behalf of any Lender may reasonably request in writing.

Notwithstanding the foregoing, the obligations in **paragraphs (a)** and **(b)** of this **Section 5.01** may be satisfied with respect to financial information of the Borrower and its Restricted Subsidiaries by furnishing (1) the Form 10-K or 10-Q (or the equivalent), as applicable, of the Borrower (or a Parent Entity thereof) filed with the SEC or (2) such financial information of a Parent Entity of the Borrower; **provided** that in any such case (i) to the extent such information relates to a Parent Entity of the Borrower, such information is accompanied by consolidating information, which may be unaudited, that explains in reasonable detail the differences between the information relating to such Parent Entity, on the one hand, and the information relating to the Borrower and its Restricted Subsidiaries on a standalone basis, on the other hand, and (ii) to the extent such information is in lieu of information required to be provided under **Section 5.01(a)**, such materials are accompanied by a report and opinion of PricewaterhouseCoopers LLP or any other independent registered public accounting firm of nationally recognized standing, which report and opinion shall be prepared in accordance with GAAP and shall not be subject to any "going concern" or like qualification or any qualification as to the scope of such audit (other than a "going concern" statement solely with respect to, or expressly resulting solely from, an upcoming maturity date of any Indebtedness under the Loan Documents, including pursuant to **Sections 2.20** and **2.21**, Indebtedness Incurred pursuant to **Section 6.01(i)**, **Section 6.01(o)** and **Section 6.01(p)**, and/or any Credit Agreement Refinancing Indebtedness, Permitted Additional Debt or Permitted Refinancing Indebtedness Incurred to Refinance (in whole or in part) any such Indebtedness).

Documents required to be delivered pursuant to **Section 5.01** may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto on the Borrower's website on the Internet at the website address listed on **Schedule 9.01** (or otherwise notified pursuant to **Section 9.01(d)**); or (ii) on which such documents are posted on the Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent has access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); **provided** that: (i) the Borrower shall deliver paper copies of such documents to the Administrative Agent upon its reasonable request and (ii) the Borrower shall notify the Administrative Agent (by facsimile or electronic mail) of the posting of any such documents and upon its reasonable request, provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. The Administrative Agent shall have no obligation to request the delivery of or maintain paper copies of the documents referred to above, and each Lender shall be solely responsible for timely accessing posted documents and maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Joint Bookrunners may make available to the Lenders and the Issuing Banks materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "**Borrower Materials**") by posting the Borrower Materials on IntraLinks or another similar electronic system (the "**Platform**") and (b) certain of the Lenders (each, a "**Public Lender**") may have personnel who do not wish to receive information that may be classified as MNPI at the time of such offering by the Borrower of public securities. The Borrower hereby agrees that it will use commercially reasonable efforts to identify that portion of the Borrower Materials that may be distributed to the Public Lenders and that (w) all such Borrower Materials shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, means that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking or otherwise designating in writing Borrower Materials "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent, the Joint Bookrunners, the Issuing Banks and the Lenders to treat such

Borrower Materials as not containing any MNPI (although it may be sensitive and proprietary) (**provided**, **however**, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in **Section 9.12**); (y) all Borrower Materials marked or otherwise designated in writing as "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information"; and (z) the Administrative Agent and the Joint Bookrunners may treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Side Information." Notwithstanding the foregoing, the Borrower shall be under no obligation to mark any Borrower Materials "PUBLIC."

SECTION 5.02. **Existence; Business and Properties**. The Borrower will, and will cause each Restricted Subsidiary to:

(a) Do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence, (i) except as otherwise permitted under **Section 6.05**, and (ii) except for the liquidation or dissolution of Subsidiaries if the assets of such Subsidiaries, to the extent they exceed estimated liabilities, are acquired by the Borrower or a Restricted Subsidiary in such liquidation or dissolution.

(b) Except as would not reasonably be expected to have a Material Adverse Effect or as otherwise permitted under **Section 6.06**, (i) do or cause to be done all things necessary to obtain, preserve, renew, extend and keep in full force and effect the permits, franchises, authorizations, Intellectual Property, licenses and rights with respect thereto necessary to the normal conduct of its business and (ii) at all times maintain and preserve all material property necessary to the normal conduct of its business and keep such property in good repair, working order and condition and from time to time make, or cause to be made, all needful and proper repairs, renewals, additions, improvements and replacements thereto necessary in order that the business carried on in connection therewith, if any, may be properly conducted at all times (in each case except as expressly permitted by this Agreement).

SECTION 5.03. **Insurance**. The Borrower will, and will cause each Restricted Subsidiary to:

(a) Keep its insurable properties insured at all times by financially sound and reputable insurers in such amounts as shall be customary for similar businesses and maintain such other reasonable insurance (including self-insurance which, in the good-faith judgment of management of the Borrower, the Borrower believes is reasonable and prudent in light of the size and nature of its business), of such types, to such extent and against such risks, as is customary with companies in the same or similar businesses.

(b) Subject to **Section 5.14**, cause all such liability insurance policies (which, for the avoidance of doubt, shall not include any officers' and directors' liability insurance policies) of the Loan Parties to name the Administrative Agent as additional insured and all such property and property casualty insurance policies of the Loan Parties to be endorsed or otherwise amended to include appropriate additional loss payable endorsements including with respect to Mortgaged Properties, a customary lender's additional loss payable endorsement.

(c) In addition, use commercially reasonable efforts to cause each such insurance policy of the Loan Parties to provide that it shall not be canceled, lapsed (including for nonrenewal) or terminated upon less than 30 days' prior written notice (or 10 days' prior written notice in the case of any failure to pay any premium due thereunder) thereof by the insurer to the Administrative Agent and to deliver to the Administrative Agent, prior to the cancellation, lapse (including for nonrenewal) or termination of any such policy of insurance, a copy of a renewal or replacement policy (or other evidence of renewal of a policy previously delivered to the Administrative Agent), or insurance certificate with respect thereto.

(d) If any improvements located on any Mortgaged Property are at any time located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a Special Flood Hazard Area with respect to which flood insurance has been made available under the National Flood Insurance Act of 1968 (as now or hereafter in effect or successor act thereto), then the Borrower shall, or shall cause the applicable Loan Party to (i) maintain, or cause to be maintained, with a financially sound and reputable insurer, flood insurance in an amount and otherwise sufficient to comply with all applicable rules and regulations promulgated pursuant to the Flood Insurance Laws and (ii) deliver to the Administrative Agent evidence of such compliance in form and substance reasonably acceptable to the Administrative Agent.

SECTION 5.04. **Payment of Taxes and Obligations, etc.** The Borrower will, and will cause each Restricted Subsidiary to, pay all of its obligations in respect of Taxes, assessments and other governmental charges (including in its capacity as withholding agent), before the same shall become delinquent or in default, except where the amount or validity thereof is being contested in good faith by appropriate proceedings and the Borrower or such Restricted Subsidiary has set aside on its books adequate reserves therefor in accordance with GAAP or except where the failure to make payment would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 5.05. **Notices of Material Events**.

(a) Promptly after any Responsible Officer of the Borrower obtains actual knowledge thereof, the Borrower will furnish to the Administrative Agent (for distribution to each Lender through the Administrative Agent) written notice of the following:

(i) the occurrence of any Default or Event of Default, specifying the nature and extent thereof and the corrective action (if any) proposed to be taken with respect thereto;

(ii) the filing or commencement of, or any written threat or notice of intention of any Person to file or commence, any action, suit or proceeding, whether at law or in equity or by or before any Governmental Authority or in arbitration, against the Borrower or any of its Restricted Subsidiaries as to which an adverse determination is reasonably probable and that, if adversely determined, would reasonably be expected to have a Material Adverse Effect; and

(iii) the occurrence of any ERISA Event that would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

Each notice delivered under this Section shall be accompanied by a written statement of a Responsible Officer of the Borrower setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

(b) The Borrower will furnish to the Administrative Agent prompt (and in any event within 30 days or such longer period as reasonably agreed to by the Administrative Agent) written notice of any change (i) in any Loan Party's legal name (as set forth in its certificate of organization or like document), (ii) in the jurisdiction of incorporation or organization of any Loan Party or in the form of its organization or (iii) in any Loan Party's organizational identification number (if any) or Federal taxpayer identification number.

(c) Concurrently with the delivery of each Compliance Certificate pursuant to **Section 5.01(d)**, the Borrower shall deliver to the Administrative Agent a certificate executed by a Responsible Officer of the Borrower specifying any change in the identity of the Grantors (as defined in the Security Agreement), Restricted Subsidiaries, Significant Subsidiaries, Immaterial Subsidiaries and Foreign Subsidiaries, as of the end of such fiscal year or quarter, as the case may be, from the Guarantors, Restricted Subsidiaries, Significant Subsidiaries, Immaterial Subsidiaries and Foreign Subsidiaries, respectively, provided to the Administrative Agent on the Effective Date or the most recent fiscal year or quarter, as the case may be.

SECTION 5.06. **Compliance with Laws**. The Borrower will, and will cause each Restricted Subsidiary to comply with all Requirements of Law applicable to it or its property, except in each case, where the failure to do so would not reasonably be expected to result in a Material Adverse Effect. The Borrower will maintain in effect and enforce policies and procedures reasonably designed to ensure compliance by the Borrower and the Restricted Subsidiaries and their respective directors, officers and employees with Anti-Corruption Laws and applicable Sanctions.

SECTION 5.07. **Maintaining Records; Access to Properties and Inspections**. The Borrower will, and will cause each of the Restricted Subsidiaries to, maintain all financial records in all material respects in accordance with GAAP. The Borrower will, and will cause each of the Restricted Subsidiaries to, permit representatives and independent contractors of the Administrative Agent and the Lenders to visit and inspect any of its properties (to the extent it is within such Person's control to permit such inspection), to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, all at the reasonable expense of the Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower (and subject, in the case of any such meetings or advice from such independent accountants, to such accountants' customary policies and procedures); **provided** that, excluding any such visits and inspections during the continuation of an Event of Default, only the Administrative Agent on behalf of the Lenders may exercise rights of the Administrative Agent and the Lenders under this **Section 5.07** and the Administrative Agent shall not exercise such rights more often than once during any calendar year absent the existence of an Event of Default at the Borrower's expense; and **provided**, **further**, that when an Event of Default exists, the Administrative Agent or the Lenders (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and upon reasonable advance notice. The Administrative Agent and the Lenders shall give the Borrower the opportunity to participate in any discussions with the Borrower's independent public accountants. Notwithstanding anything to the contrary in **Section 5.01** or this **Section 5.07**, neither of Borrower nor any Restricted Subsidiary will be required to disclose, permit the inspection, examination or making copies or abstracts of, or discussion of, any document, information or other matter (i) that constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or their respective representatives or contractors) is prohibited by applicable Requirements of Law or any binding agreement or (iii) that is subject to attorney-client or similar privilege or constitutes attorney work product.

SECTION 5.08. **Use of Proceeds**. The Borrower will, and will cause each Restricted Subsidiary to, use the proceeds of the Loans and the Letters of Credit only as contemplated in **Section 3.12**.

SECTION 5.09. **Compliance with Environmental Laws**. The Borrower (i) will, and will make commercially reasonable efforts to cause each Restricted Subsidiary to, comply with all Environmental Laws applicable to its operations and properties and comply with and obtain and renew all permits, licenses and other approvals required pursuant to Environmental Law for its operations and properties except, in each case with respect to this **Section 5.09**, to the extent the failure to do so could not reasonably be expected to have individually or in the aggregate, a Material Adverse Effect.

SECTION 5.10. **Additional Subsidiaries**. If (i) any additional Restricted Subsidiary (other than an Excluded Subsidiary) is formed or acquired after the Effective Date or (ii) if any Restricted Subsidiary ceases to be an Excluded Subsidiary, the Borrower will, within 45 days (or such longer period as the Administrative Agent may reasonably agree) after such newly formed or acquired Restricted Subsidiary is formed or acquired or such Restricted Subsidiary ceases to be an Excluded Subsidiary, notify the Administrative Agent thereof, and will (x) cause such Restricted Subsidiary to satisfy the Collateral and Guarantee Requirement with respect to such Restricted Subsidiary and (y) cause each Loan Party to satisfy the Collateral and Guarantee Requirement with respect to any Equity Interest other than Excluded Equity Interests in or the Indebtedness of such Restricted Subsidiary owned by such Loan Party.

SECTION 5.11. **Further Assurances**.

(a) Subject to the limitations set forth in the definition of Collateral and Guarantee Requirement and in the Security Documents, the Borrower will, and will cause each Loan Party to, execute any and all further documents, financing statements, agreements, instruments, certificates, notices and acknowledgments and take all such further actions (including the filing and recording of financing statements, fixture filings, mortgages, deeds of trust and/or amendments thereto and other documents), that may be required under any applicable Requirement of Law and that the Administrative Agent or the Required Lenders may request, to create and cause the Collateral and Guarantee Requirement to be and remain satisfied and perfected, all at the expense of the Loan Parties.

(b) Subject to the limitations set forth in the definition of Collateral and Guarantee Requirement and in the Security Documents, promptly upon reasonable request by the Administrative Agent, the Borrower will, and will cause each Loan Party to, (i) correct any defect or error that may be discovered in the execution, acknowledgment, filing or recordation of any Collateral or Guarantee or other document or instrument relating to any Collateral or Guarantee, and (ii) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent may reasonably request from time to time in order to carry out more effectively the purposes of the Collateral or Guarantee, to the extent required.

(c) Subject to the limitations set forth in the definition of Collateral and Guarantee Requirement and in the Security Documents, if, after the Effective Date, any material assets (including any owned Real Property or improvements thereto or any interest therein (unless such Real Property is an Excluded Asset)) with a Fair Market Value in excess of $25,000,000 (determined at the time of acquisition thereof, or, if acquired prior to the date the applicable Person became a Loan Party, the date such Person becomes a Loan Party, or, to the extent that any improvements are constructed on any such Real Property after the date of acquisition, on the date of "substantial completion" or similar timing, as determined by the Borrower in consultation with the Administrative Agent, of such improvements) are acquired by the Borrower or any other Loan Party (or, in the case of a Person that became a Loan Party after the Effective Date, after the date it became a Loan Party) (other than (x) assets constituting Collateral under a Security Document that become subject to the Lien created by such Security Document upon acquisition thereof or (y) Excluded Assets), the Borrower will notify the Administrative Agent thereof simultaneously with the delivery of the certificate of a Financial Officer pursuant to **Section 5.01(d)** with respect to the financial statements delivered pursuant to **Section 5.01(a)** or **(b)**, and, if requested by the Administrative Agent, within 60 days of acquisition thereof (or, in the case of Real

Property, 90 days) (or, in each case, such longer period as the Administrative Agent may agree in its sole discretion) the Borrower will cause such assets to be subjected to a Lien securing the Secured Obligations (**provided**, **however**, that, in the event any Real Property subject to a Mortgage under this Section is located in a jurisdiction that imposes mortgage recording taxes or any similar fees or charges, such Mortgage shall only secure an amount equal to the Fair Market Value (determined as set forth above) of such Real Property) and will take and cause the other Loan Parties to take, such actions as shall be necessary and reasonably requested by the Administrative Agent to grant and perfect such Liens, including actions described in **paragraph (a)** of this Section and to cause the Collateral and Guarantee Requirement to be satisfied, all at the expense of the Loan Parties.

SECTION 5.12. **Maintenance of Ratings**. The Borrower shall use commercially reasonable efforts to maintain a public corporate rating from S&P and a public corporate family rating from Moody's, in each case in respect of the Borrower, and a public rating of the Initial Term Facility under this Agreement by each of S&P and Moody's, but in any event, not a specific rating.

SECTION 5.13. **Designation of Subsidiaries**. The Borrower may at any time after the Effective Date designate (x) any Restricted Subsidiary of the Borrower as an Unrestricted Subsidiary or (y) any Unrestricted Subsidiary as a Restricted Subsidiary; **provided** that (i) immediately after such designation on a pro forma basis, no Event of Default shall have occurred and be continuing and (ii) no Subsidiary may be designated as an Unrestricted Subsidiary or continue as an Unrestricted Subsidiary (A) if it is a "Restricted Subsidiary" for the purpose of any third party Material Indebtedness for borrowed money of the Borrower pursuant to which a Subsidiary may be designated an "Unrestricted Subsidiary" or (B) unless each Subsidiary of such Subsidiary has been designated as an "Unrestricted Subsidiary" in accordance with this Section. The designation of any Subsidiary as an Unrestricted Subsidiary after the Effective Date shall constitute an Investment by the Borrower therein at the date of designation in an amount equal to the Fair Market Value of the Borrower's or its Subsidiary's (as applicable) investment therein. The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute (i) the Incurrence at the time of designation of any Investment, Indebtedness or Liens of such Subsidiary existing at such time and (ii) a return on any Investment by the Borrower in such Unrestricted Subsidiary in an amount equal to the Fair Market Value at the date of such designation of the Borrower's or its Subsidiary's (as applicable) Investment in such Subsidiary.

SECTION 5.14. **Certain Post-Closing Obligations**. As promptly as practicable, and in any event within the time periods after the Effective Date specified in Schedule 5.14 or such later date as the Administrative Agent reasonably agrees to in writing, including to reasonably accommodate circumstances unforeseen on the Effective Date, the Borrower and each other Loan Party shall deliver the documents or take the actions specified on Schedule 5.14, in each case except to the extent otherwise agreed by the Administrative Agent pursuant to its authority as set forth in the definition of the term "Collateral and Guarantee Requirement."

SECTION 5.15. **Business of the Borrower and the Restricted Subsidiaries**. The Borrower will not, nor will it permit any Restricted Subsidiary to, engage at any time in any business or business activity other than (i) any business or business activity conducted by any of them on the Effective Date and any business or business activities incidental or related thereto, (ii) any business or business activity that is reasonably similar thereto or a reasonable extension, development or expansion thereof or ancillary thereto or (iii) any business or business activity that the senior management of the Borrower deems beneficial for the Borrower or such Restricted Subsidiary.

SECTION 5.16. **Fiscal Year**. The Borrower will, for financial reporting purposes, cause (a) each of its, and each of the Restricted Subsidiaries', fiscal years to end on the Saturday closest to December 31 of each year and (b) each of its, and each of the Restricted Subsidiaries', fiscal quarters to end on dates consistent with such fiscal year-end and the Borrower's past practice; **provided, however**, that the Borrower may, upon written notice to, and consent by, the Administrative Agent, change the financial reporting convention specified above to any other financial reporting convention reasonably acceptable to the Administrative Agent, in which case the Borrower and the Administrative Agent will, and are hereby authorized by the Lenders to, make any adjustments to this Agreement that are necessary in order to reflect such change in financial reporting.

ARTICLE VI

Negative Covenants

Until the Commitments have expired or been terminated and the principal of and interest on each Loan and all fees, expenses and other amounts payable (other than contingent amounts not yet due and liabilities under Secured Cash Management Obligations and Secured Swap Obligations) under any Loan Document have been paid in full and all Letters of Credit have expired or been terminated (or Cash Collateralized or backstopped pursuant to arrangements reasonably acceptable to the applicable Issuing Bank) and all LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lenders that:

SECTION 6.01. **Indebtedness**. The Borrower will not, and will not permit any Restricted Subsidiary to, Incur any Indebtedness, except:

(a) Indebtedness existing on the Effective Date and set forth on **Schedule 6.01** and any Permitted Refinancing Indebtedness incurred to Refinance such Indebtedness;

(b)(i) Indebtedness created hereunder and under the other Loan Documents, including any Indebtedness created under **Section 2.20** or **2.21** hereof and (ii) (A) any Credit Agreement Refinancing Indebtedness Incurred to Refinance (in whole or in part) such Indebtedness and Term Loan Exchange Notes and (B) any Permitted Refinancing Indebtedness to Refinance (in whole or in part) any such Credit Agreement Refinancing Indebtedness and Term Loan Exchange Notes;

(c) Indebtedness of the Borrower to any Restricted Subsidiary and of any Restricted Subsidiary to the Borrower or any other Restricted Subsidiary; **provided** that (i) Indebtedness of any Restricted Subsidiary that is not a Subsidiary Loan Party owing to the Borrower or any Subsidiary Loan Party shall be subject to **Section 6.04** and (ii) Indebtedness of any Restricted Subsidiary that is owing to any Loan Party shall be evidenced by the Intercompany Subordinated Note;

(d) Indebtedness of the Borrower and the Restricted Subsidiaries pursuant to Swap Agreements to the extent that, at the time entered into, such Swap Agreements were (i) in the ordinary course of business to hedge or mitigate risks to which the Borrower or any Restricted Subsidiary is exposed in the conduct of its business or the management of its liabilities (including currency risks) or (ii) in order to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of the Borrower or any Restricted Subsidiary;

(e) Obligations in respect of Cash Management Services and other Indebtedness in respect of netting services, automatic clearing house arrangements, employees' credit or purchase cards, overdraft protections and similar arrangements and otherwise in connection with deposit accounts, in each case, incurred in the ordinary course of business;

(f)(i) Indebtedness constituting reimbursement obligations in respect of any bankers' acceptance, bank guarantees, letters of credit, warehouse receipt or similar facilities entered into in the ordinary course of business (including in respect of workers compensation claims, or consistent with past practice, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other Indebtedness with respect to reimbursement-type obligations regarding workers compensation claims, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance) and (ii) Indebtedness supported by Letters of Credit or other letters of credit under similar facilities in an amount not to exceed the Stated Amount of such Letters of Credit or stated amount of such other letters of credit under such similar facilities;

(g) Indebtedness in respect of contracts (including trade contracts and government contracts), statutory obligations, performance bonds, bid bonds, custom bonds, stay and appeal bonds, surety bonds, indemnity bonds, judgment bonds, performance and completion and return of money bonds and guarantees, financial assurances, bankers' acceptance facilities and similar obligations or obligations in respect of letters of credit, bank guarantees or similar instruments related thereto, in each case not in connection with the borrowing of money, including those incurred to secure health, safety and environmental obligations;

(h)(i) Indebtedness of a Person or Indebtedness attaching to assets of a Person that, in either case, becomes a Restricted Subsidiary (or is a Restricted Subsidiary that survives a merger, consolidation or amalgamation with such Person or any of its Subsidiaries) or Indebtedness attaching to assets that are acquired by the Borrower or any Restricted Subsidiary, in each case after the Effective Date as the result of an Acquisition, Investment, similar transaction or Indebtedness of any Unrestricted Subsidiary that is redesignated as a Restricted Subsidiary; **provided** that;

(A) subject to **Section 1.10**, after giving pro forma effect thereto, no Event of Default under **Section 7.01(a)**, **(b)**, **(h)** or **(i)** has occurred and is continuing;

(B) as of the date that any such Person becomes a Restricted Subsidiary (or is a Restricted Subsidiary that survives a merger, consolidation or amalgamation with such a Person or any of its Subsidiaries) or the date that any such assets are acquired by the Borrower or any Restricted Subsidiary and after giving pro forma effect thereto, the aggregate principal amount of Indebtedness then outstanding pursuant to this **Section 6.01(h)** does not exceed, except as contemplated by the definition of "Permitted Refinancing Indebtedness", the sum of

(I) the Incremental Base Amount plus

(II) subject to **Section 1.10**, an aggregate amount such that, after giving pro forma effect to the Incurrence of any such Indebtedness and to such Acquisition, Investment, similar transaction or any Specified Event to be consummated in connection therewith, the Borrower and the Restricted Subsidiaries shall be in compliance on a pro forma basis with, at the option of the Borrower, either (1) a Consolidated Total Leverage Ratio, as such ratio is calculated as of the last day of the Test Period most recently ended on or prior to the date of such Incurrence, as if such Incurrence, Acquisition, Investment, similar transaction or any Specified Event had occurred on the first day of such Test Period, that is no greater than either (x) 5.50:1.00 or (y) the Consolidated Total Leverage Ratio immediately prior to such Incurrence and such other transactions or (2) a Consolidated Fixed Charge Coverage Ratio, as such ratio is calculated as of the last day of the Test Period most recently ended on or prior to

the date of such Incurrence, as if such Incurrence, Acquisition, similar transaction or Specified Event occurred on the first day of such Test Period, of either (x) not less than 2.00:1.00 or (y) not less than the Consolidated Fixed Charge Coverage Ratio immediately prior to giving effect to such Incurrence and such other transactions;

(C) such Indebtedness existed at the time such Person became a Subsidiary or at the time such assets were acquired and, in each case, was not created in anticipation thereof;

(D) such Indebtedness is not guaranteed in any respect by the Borrower or any Restricted Subsidiary (other than any such Person that so becomes a Restricted Subsidiary or is the survivor of a merger with such Person or any of its Subsidiaries) (except, for the avoidance of doubt, to the extent permitted by dollar for dollar usage of any other basket set forth in **Section 6.01**); and

(E)(x) the Equity Interests of such Person is pledged to the Administrative Agent to the extent required under **Section 5.10** and **Section 5.11** and (y) such Person executes a supplement to each applicable Security Document (or alternative guarantee and security arrangements in relation to the Secured Obligations) and a counterpart signature page to the Intercompany Subordinated Note, in each case to the extent required under **Section 5.10** or **Section 5.11**, as applicable; **provided** that the requirements of this clause (E) shall not apply to any Indebtedness of the type that could have been Incurred under **Section 6.01(j)**; and

(ii) any Permitted Refinancing Indebtedness Incurred to Refinance (in whole or in part) such Indebtedness;

(i)(i) Indebtedness of the Borrower or any Restricted Subsidiary Incurred to finance an Acquisition or similar Investment; **provided** that,

(A) subject to **Section 1.10**, after giving pro forma effect thereto, no Event of Default under **Section 7.01(a)**, **(b)**, **(h)** or **(i)** has occurred and is continuing;

(B) as of the date of such Incurrence and after giving pro forma effect thereto, and the use of the proceeds thereof, the aggregate principal amount of Indebtedness then outstanding pursuant to this **Section 6.01(i)**, does not exceed, except as contemplated by the definition of "Permitted Refinancing Indebtedness", the sum of

(I) the Incremental Base Amount plus

(II) subject to **Section 1.10**, an aggregate amount such that, after giving pro forma effect to the Incurrence of any such Indebtedness and to such Acquisition, Investment, any Specified Event or similar transaction to be consummated in connection therewith, the Borrower and the Restricted Subsidiaries shall be in compliance on a pro forma basis with a Consolidated Total Leverage Ratio, as such ratio is calculated as of the last day of the Test Period most recently ended on or prior to the date of such Incurrence, as if such Incurrence, Acquisition, Investment, similar transaction or any Specified Event or similar transaction had occurred on the first day of such Test Period, that is no greater than either (x) 5.50:1.00 or (y) the Consolidated Total Leverage Ratio

immediately prior to such Incurrence and such other transactions or (2) a Consolidated Fixed Charge Coverage Ratio, as such ratio is calculated as of the last day of the Test Period most recently ended on or prior to the date of such Incurrence, as if such Incurrence, Acquisition, similar transaction or any Specified Event occurred on the first day of such Test Period, of either (x) not less than 2.00:1.00 or (y) not less than the Consolidated Fixed Charge Coverage Ratio immediately prior to giving effect to such Incurrence and such other transactions;

(C) [Reserved];

(D)(x) the Equity Interests of any Person acquired in such Acquisitions or Investments (the "Acquired Person") is pledged to the Administrative Agent to the extent required under the Collateral and Guarantee Requirement and (y) such Acquired Person executes a supplement to each of the Loan Guaranty and the Security Agreement and a counterpart signature page to the Intercompany Subordinated Note (or alternative guarantee and security arrangements in relation to the Secured Obligations), in each case, to the extent required under the Collateral and Guarantee Requirement; and

(E) the terms of such Indebtedness shall be consistent with the requirements set forth in **clause (a)** and **clause (b)** and, if applicable, **clause (f)** of the definition of "Permitted Additional Debt"; **provided** that a certificate of a Responsible Officer of the Borrower delivered to the Administrative Agent at least five Business Days prior to the Incurrence of such Indebtedness, together with a reasonably detailed description of the material terms and conditions of such Indebtedness or drafts of the documentation relating thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the foregoing requirement shall be conclusive evidence that such terms and conditions satisfy the foregoing requirement unless the Administrative Agent notifies the Borrower within such five Business Day period that it disagrees with such determination (including a reasonable description of the basis upon which it disagrees); and

(ii) any Permitted Refinancing Indebtedness Incurred to Refinance (in whole or in part) such Indebtedness.

(j)(i) Indebtedness (including Financing Lease Obligations and other Indebtedness arising under mortgage financings and purchase money Indebtedness) the proceeds of which are used to finance the acquisition, development, construction, repair, restoration, replacement, maintenance, upgrade, expansion or improvement of fixed or capital assets or otherwise Incurred in respect of Capital Expenditures and other Financing Lease Obligations; **provided** that such Indebtedness is Incurred concurrently with or within 365 days after the date of substantial completion of the applicable acquisition, development, construction, repair, restoration, replacement, maintenance, upgrade, expansion or improvement or the making of the applicable Capital Expenditure; **provided**, **further**, that, at the time of Incurrence thereof and after giving pro forma effect thereto and the use of the proceeds thereof, the aggregate principal amount of such Indebtedness then outstanding pursuant to this clause (j)(i) (when aggregated with the aggregate principal amount of Permitted Refinancing Indebtedness pursuant to clause (j)(ii) in respect of such Indebtedness then outstanding) shall not, except as contemplated by the definition of "Permitted Refinancing Indebtedness", exceed an amount equal to the greater of (x) $125,000,000 and (y) 35% of Consolidated EBITDA of the Borrower and its Restricted Subsidiaries for the Test Period most recently ended on or prior to such date of Incurrence (measured as of the date) based upon the Internal Financial Statements most recently available on or prior to such date; and

(ii) any Permitted Refinancing Indebtedness Incurred to Refinance Indebtedness incurred pursuant to **clause (i)** above;

(k) Indebtedness arising from agreements of the Borrower or any Restricted Subsidiary providing for indemnification, adjustment of purchase price, earn-outs, deferred purchase price, payment obligations in respect of any non-compete, consulting or similar arrangement, contingent earnout obligations or similar obligations, in each case entered into in connection with the Permitted Business Acquisitions, other Investments and the Disposition of any business, assets or Equity Interests permitted hereunder, other than Guarantees Incurred by any Person acquiring all or any portion of such business, assets or Equity Interests for the purpose of financing such acquisition, but including in connection with Guarantees, letter of credit, surety bonds on performance bonds securing the performance of the Borrower or any such Restricted Subsidiary pursuant to such agreements;

(l) Indebtedness consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations, termination fees or similar obligations contained in supply or manufacturing arrangements, in each case, in the ordinary course of business;

(m)(i) Indebtedness representing deferred compensation or stock based or similar compensation to officers, directors, managers, employees, consultants or independent contractors of the Borrower (or any Parent Entity thereof or any Equityholding Vehicle) and the Restricted Subsidiaries Incurred in the ordinary course of business; and (ii) Indebtedness consisting of obligations of the Borrower (or any Parent Entity thereof or any Equityholding Vehicle) or the Restricted Subsidiaries under deferred compensation arrangements to their employees, officers, directors, managers, consultants or independent contractors or other similar arrangements incurred by such Persons in connection with Acquisitions or any other Investment expressly permitted under **Section 6.04** (other than **6.04(r)** or **6.04(s)**) or **Section 6.07** (other than **6.07(a)(ii)**);

(n) [reserved];

(o)(i) Indebtedness in respect of Permitted Additional Debt that at the time of Incurrence or provision thereof and after giving pro forma effect thereto and such other transactions being consummated in connection therewith shall not exceed, except as contemplated by the definition of "Permitted Refinancing Indebtedness", the sum of :

(A) the Incremental Base Amount plus

(B) an aggregate amount of Indebtedness, such that, after giving pro forma effect to such Incurrence (and after giving pro forma effect to any Specified Event to be consummated in connection therewith and assuming that all Incremental Revolving Commitment Increases and Incremental Revolving Commitments then outstanding and Incurred under **Section 2.20(b)(B)** were fully drawn), the Borrower would be in compliance with:

(1) if such Indebtedness constitutes First Lien Obligations, a Consolidated First Lien Leverage Ratio, calculated as of the last day of the Test Period most recently ended on or prior to the Incurrence of any such Permitted Additional Debt, calculated on a pro forma basis, as if such Incurrence (and any related transaction) had occurred on the first

day of such Test Period, that is no greater than either (x) 4.00:1.00 (whether or not Incurred in connection with an Acquisition, Investment or similar transaction) or (y) if Incurred in connection with an Acquisition, Investment or similar transaction, the Consolidated First Lien Leverage Ratio immediately prior to such Acquisition, Investment or similar transaction,

(2) if such Indebtedness is secured by a Lien on the Collateral that does not constitute First Lien Obligations, a Consolidated Secured Leverage Ratio, calculated as of the last day of the Test Period most recently ended on or prior to the Incurrence of any such Permitted Additional Debt, calculated on a pro forma basis, as if such Incurrence (and any related transaction) had occurred on the first day of such Test Period, that is no greater than either (x) 5.00:1.00 (whether or not Incurred in connection with an Acquisition, Investment or similar transaction) or (y) if Incurred in connection with an Acquisition, Investment or similar transaction, the Consolidated Secured Leverage Ratio immediately prior to such Acquisition, Investment or similar transaction, and

(3) with respect to any Indebtedness not of the type described in subclauses (1) or (2) above, a (i) Consolidated Total Leverage Ratio, calculated as of the last day of the Test Period most recently ended on or prior to the Incurrence of any such Permitted Additional Debt, calculated on a pro forma basis, as if such Incurrence (and any related transaction) had occurred on the first day of such Test Period, that is no greater than either (x) 5.50:1.00, whether or not incurred in connection with an Acquisition, Investment or similar transaction or (y) if Incurred in connection with an Acquisition, Investment or similar transaction, the Consolidated Total Leverage Ratio immediately prior to such Acquisition, Investment or similar transaction or (2) a Consolidated Fixed Charge Coverage Ratio, as such ratio is calculated as of the last day of the Test Period most recently ended on or prior to the date of such Incurrence, as if such Incurrence, Acquisition or similar transaction on the first day of such Test Period, of either (x) not less than 2.00:1.00, whether or not incurred in connection with an Acquisition, Investment or similar transaction, or (y) if incurred in connection with an Acquisition, Investment or similar transaction, not less than the Consolidated Fixed Charge Coverage Ratio immediately prior to giving effect to such Acquisition, Investment or similar transaction.

(clauses (A), (B) and (C) hereunder, the "**Incremental Ratio Debt Amount**");

provided, that, subject to **Section 1.10**, no Event of Default (or, in the case of the Incurrence or provision of Permitted Additional Debt in connection with an Acquisition, no Event of Default under either **Section 7.01(a)**, **(b)**, **(h)** or **(i)**) shall have occurred and be continuing at the time of the Incurrence or provision of any such Indebtedness or after giving pro forma effect thereto; and

(ii) any Permitted Refinancing Indebtedness Incurred to Refinance such Indebtedness;

(p) additional senior, senior subordinated or subordinated Indebtedness of the Borrower and the Restricted Subsidiaries, and Permitted Refinancing Indebtedness thereof, in an aggregate principal amount, determined as of the date of the Incurrence of such Indebtedness and giving pro forma effect thereto and the use of the proceeds thereof, not to exceed, except as contemplated by the definition of "Permitted Refinancing Indebtedness", the sum of

(i) the Incremental Base Amount, plus

(ii) an amount such that, after giving pro forma effect to the Incurrence of any such Indebtedness and any Specified Event to be consummated in connection therewith, the Borrower and Restricted Subsidiaries shall be in compliance on a pro forma basis with a Consolidated Total Leverage Ratio, as such ratio is calculated as of the last day of the Test Period most recently ended on or prior to the date of such Incurrence, as if such Incurrence, Acquisition or similar Investment or Specified Event had occurred on the first day of such Test Period, of not greater than 5.50:1.00;

provided, that (x) the terms of such Indebtedness shall be consistent with the requirements of **clause (a)** and **clause (b)**, and if applicable, **clause (f)** of the proviso of the definition of "Permitted Additional Debt" and (y) to the extent secured, such Indebtedness shall only be secured by Liens permitted pursuant to **Section 6.02(ii)**;

(q) Except as otherwise limited by **clauses (a)**, **(b)**, **(h)**, **(i)**, **(o)**, **(p)**, **(v)** and **(dd)**, Guarantees Incurred by (i) any Restricted Subsidiary in respect of Indebtedness of the Borrower or any other Restricted Subsidiary that is permitted to be Incurred under this Agreement and (ii) the Borrower in respect of Indebtedness of any Restricted Subsidiary that is permitted to be Incurred under this Agreement; **provided** that (A) Guarantees Incurred by the Borrower or any Subsidiary Loan Party in respect of Indebtedness of any Restricted Subsidiary that is not a Subsidiary Loan Party shall be subject to **Section 6.04** and (B) if the applicable Indebtedness is subordinated to the Secured Obligations, any such Guarantees shall be subordinated to the Secured Obligations;

(r) Guarantees incurred in the ordinary course of business in respect of obligations (not constituting Indebtedness) to suppliers, customers, franchisees, lessors, licensees, sublicensees or distribution partners;

(s)(i) unsecured Indebtedness in respect of obligations of the Borrower or any Restricted Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services; **provided** that such obligations are Incurred in connection with open accounts extended by suppliers on customary trade terms in the ordinary course of business and not in connection with the borrowing of money and (ii) unsecured Indebtedness in respect of intercompany obligations of the Borrower or any Restricted Subsidiary in respect of accounts payable Incurred in connection with goods sold or services rendered in the ordinary course of business and not in connection with the borrowing of money;

(t) unsecured Indebtedness consisting of promissory notes issued by the Borrower or any Restricted Subsidiary to future, current or former officers, managers, consultants, directors, employees and independent contractors (or their respective Immediate Family Members) of the Borrower (or any Parent Entity or Equityholding Vehicle), any of its Subsidiaries, in each case, to finance the retirement, acquisition, repurchase or redemption of Equity Interests of the Borrower (or any Parent Entity thereof or any Equityholding Vehicle to the extent such Parent Entity or any Equityholding Vehicle uses the proceeds to finance the purchase or redemption (directly or indirectly) of its Equity Interests) or the Equity Interests of the Borrower, in each case to the extent permitted by **Section 6.07** (other than **6.07(a)(ii)**); **provided** that, any such Indebtedness shall reduce availability under **Section 6.07** to the extent of any amounts incurred from time to time under this **Section 6.01(t)**, whether or not outstanding, except in respect of amounts forgiven or cancelled without payment being made;

(u) unsecured Indebtedness in the amount of any Excluded Contribution to the extent not counted for purposes of the Available Equity Amount or Cure Amount; **provided** that, the maturity date of such Indebtedness is not earlier than the Latest Maturity Date;

(v) Indebtedness of Restricted Subsidiaries that are not Loan Parties; **provided**, that at the time of Incurrence thereof and after giving pro forma effect to such Incurrence and other transactions occurring in connection therewith and the use of proceeds thereof, the aggregate principal amount of such Indebtedness then outstanding under this **Section 6.01(v)** shall not exceed the greater of (x) $50,000,000 and (y) 15% of Consolidated EBITDA of the Borrower and its Restricted Subsidiaries for the Test Period most recently ended on or prior to such date of Incurrence (measured as of the date such Indebtedness is Incurred based upon the Internal Financial Statements most recently available on or prior to such date);

(w) other Indebtedness of the Borrower and the Restricted Subsidiaries; **provided**, that, at the time of the Incurrence thereof and after giving pro forma effect to such Incurrence and other transactions and the use of the proceeds thereof, the aggregate principal amount of Indebtedness then outstanding under this **Section 6.01(w)** shall not exceed the greater of (x) $180,000,000 and (y) 50% of Consolidated EBITDA of the Borrower and its Restricted Subsidiaries for the Test Period most recently ended on or prior to such date of Incurrence (measured as of the date such Indebtedness is Incurred based upon the Internal Financial Statements most recently available on or prior to such date);

(x) [reserved];

(y) Indebtedness in respect of surety bonds or commercial letters of credit obtained in the ordinary course of business;

(z) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business;

(aa) customer deposits and advance payments received in the ordinary course of business from customers for goods or services purchased in the ordinary course of business or consistent with past practice;

(bb) endorsement of instruments or other payment items for deposit in the ordinary course of business;

(cc) obligations in respect of letters of support, guarantees or similar obligations issued, made or incurred for the benefit of any Subsidiary of the Borrower to the extent required by law or in connection with any statutory filing or the delivery of audit opinions performed in jurisdictions other than within the United States;

(dd) Indebtedness of the Borrower and the Subsidiary Loan Parties in connection with (i) the Senior Secured Notes and any Guarantees thereof; **provided** that the aggregate principal amount of Indebtedness outstanding under this **Section (dd)(i)** shall not exceed $500,000,000, and (ii) any Permitted Refinancing Indebtedness Incurred to Refinance such Indebtedness;

(ee) Indebtedness incurred or assumed in connection with a Franchise Acquisition in an amount not to exceed $30,000,000 per Franchise Acquisition; and

(ff) all customary premiums (if any), interest (including post-petition and capitalized interest), fees, expenses, charges and additional or contingent interest on obligations described in each of the clauses of this **Section 6.01**.

For purposes of determining compliance with this **Section 6.01**, in the event that an item of Indebtedness meets the criteria of more than one of the categories of Indebtedness described in **clauses (a)** through **(ff)** above, the Borrower shall, in its sole discretion, classify and reclassify or later divide, classify or reclassify such item of Indebtedness (or any portion thereof) and will only be required to include the amount and type of such Indebtedness in one or more of the above clauses; **provided** that all Indebtedness outstanding under the Loan Documents will be deemed to have been Incurred in reliance only on the exception in **Section 6.01(b)** and all Indebtedness outstanding under the Senior Secured Notes will be deemed to have been Incurred in reliance only on the exception in **Section 6.01(dd)** (but without limiting the right of the Borrower to classify and reclassify, or later divide, classify or reclassify, Indebtedness Incurred under **Section 2.20** or **Section 6.01(o)** as between the Incremental Base Amount and the Incremental Ratio Debt Amount). The accrual of interest, the accretion of accreted value and the payment of interest in the form of additional Indebtedness shall not be deemed to be an Incurrence of Indebtedness for purposes of this **Section 6.01**.

SECTION 6.02. **Liens**. The Borrower will not, and will not permit any Restricted Subsidiary to, create, incur, assume or permit to exist any Lien on any property or assets (including stock or other securities of any Person, including the Borrower or any Restricted Subsidiary of the Borrower) at the time owned by it or on any income or revenues or rights in respect of any thereof, except:

(a) Liens on property or assets of the Restricted Subsidiaries existing on the Effective Date or pursuant to agreements in existence on the Effective Date and set forth on Schedule 6.02 or, to the extent not listed in such Schedule, such property or assets have a Fair Market Value that does not exceed $25,000,000 in the aggregate; **provided** that (i) such Lien does not extend to any other property or asset of the Borrower or any Restricted Subsidiary that was not subject to the original Lien, other than (A) after-acquired property that is affixed to or incorporated into the property covered by such Lien, (B) in the case of any property or assets financed by Indebtedness or subject to a Lien securing Indebtedness, in each case, permitted by **Section 6.01**, the terms of which Indebtedness require or include a pledge of after-acquired property to secure such Indebtedness and related obligations, any such after-acquired property and (C) the proceeds and products thereof, accessions and additions thereto and improvements thereon (it being understood that individual financings provided by any Lender may be cross-collateralized to other financings of the same type provided by any such lender or its Affiliates) and (ii) such Lien shall secure only those obligations that such Liens secured on the Effective Date and any Permitted Refinancing Indebtedness Incurred to Refinance such Indebtedness permitted by **Section 6.01**;

(b) any Lien created (i) under the Loan Documents securing the Secured Obligations (including in respect of Cash Collateral) or permitted in respect of any Mortgaged Property by the terms of the applicable Mortgage, (ii) pursuant to the "Security Documents" securing the "Secured Notes Obligations" (each as defined in the Senior Secured Notes Indenture) in respect of the Senior Secured Notes issued on the Effective Date (**provided** that such Liens do not extend to any assets that are not Collateral), (iii) the Permitted Additional Debt Documents securing Permitted Additional Debt Obligations permitted to be incurred under **Section 6.01(o)** (**provided** that such Liens do not extend to any assets that are not Collateral) and (iv) the documentation governing any Credit Agreement Refinancing Indebtedness or Term Loan Exchange Notes (**provided** that such Liens do not extend to any

assets that are not Collateral); **provided** that, (A) in the case of Liens described in **subclause (ii)**, **(iii)** or **(iv)** above securing the Senior Secured Notes, any Permitted Additional Debt Obligations, any Term Loan Exchange Notes or any Credit Agreement Refinancing Indebtedness that constitute, or are intended to constitute, First Lien Obligations, the holders of the Senior Secured Notes, the applicable Permitted Additional Debt Secured Parties, the holders of such Term Loan Exchange Notes or the parties to such Credit Agreement Refinancing Indebtedness (or a representative thereof on behalf of such holders or parties) shall have entered into with the Administrative Agent, the Equal Priority Intercreditor Agreement or a Customary Intercreditor Agreement, which agreement shall provide that the Liens on the Collateral securing such Senior Secured Notes, Permitted Additional Debt Obligations, Term Loan Exchange Notes or Credit Agreement Refinancing shall have the same priority ranking as the Liens on the Collateral securing the Secured Obligations (but without regard to the control of remedies) and (B) in the case of Liens described in **subclause (iii)** or **(iv)** above securing any Permitted Additional Debt Obligations, any Term Loan Exchange Notes or any Credit Agreement Refinancing Indebtedness that do not constitute, or are not intended to constitute, First Lien Obligations, the applicable Permitted Additional Debt Secured Parties, the holders of such Term Loan Exchange Notes or the parties to such Credit Agreement Refinancing Indebtedness (or a representative thereof on behalf of such holders or parties) shall have entered into a Customary Intercreditor Agreement with the Administrative Agent, which agreement shall provide that the Liens on the Collateral securing such Permitted Additional Debt Obligations, such Term Loan Exchange Notes or such Credit Agreement Refinancing Indebtedness, as applicable, shall rank junior in priority to the Liens on the Collateral securing the Secured Obligations and any other First Lien Obligations (without any further consent of the Lenders, the Administrative Agent shall be authorized to negotiate, execute and deliver on behalf of the Secured Parties any Customary Intercreditor Agreement or any amendment (or amendment and restatement) to the Security Documents or a Customary Intercreditor Agreement to the extent necessary to effect the provisions contemplated by this **Section 6.02(b)**);

(c) Liens existing on property at the time of its acquisition or existing on the property of any Person at the time such Person becomes a Restricted Subsidiary, in each case after the Effective Date; **provided** that (A) such Lien was not created in contemplation of such acquisition or such Person becoming a Restricted Subsidiary, (B) such Lien does not extend to or cover any other assets or property (other than the proceeds or products thereof and other than after-acquired property that is (x) affixed or incorporated into the property covered by such Lien or (y) if the Indebtedness and other obligations secured by such Lien require or include a pledge of after-acquired property pursuant to their terms, such property; it being understood that such requirement (i) was in effect at the time such property was acquired or such Person became a Restricted Subsidiary and (ii) shall not be permitted to apply to any property to which such requirement would not have applied but for such acquisition) and (C) the Indebtedness secured thereby is permitted under **Section 6.01(h)** or **6.01(j)**;

(d) Liens for Taxes, assessments or other governmental charges or levies that are either not yet overdue by more than 30 days or thereafter payable without penalty, or that are being contested in compliance with **Section 5.04**;

(e) the modification, Refinancing, replacement, extension or renewal (or successive modifications, Refinancings, replacements, extensions or renewals) of any Lien permitted by **clauses (a)**, **(c)**, **(j)**, **(t)**, **(ii)** and **(gg)** of this **Section 6.02** upon or in the same assets theretofore subject to such Lien other than

(i) after-acquired property that is affixed or incorporated into the property covered by such Lien,

(ii) in the case of Liens permitted by **clauses (a)**, **(c)**, **(ii)** or **(gg)** of this **Section 6.02**, after-acquired property subject to a Lien securing Indebtedness permitted under

Section 6.01, the terms of which Indebtedness require or include a pledge of after-acquired property (it being understood that such requirement shall not be permitted to apply to any property to which such requirement would not have applied but for such acquisition) and

(iii) the proceeds and products thereof;

(f) landlord's, carriers', warehousemen's, mechanics', materialmen's, suppliers', repairmen's, construction or other like Liens arising in the ordinary course of business or securing obligations that are being contested in good faith by appropriate proceedings and in respect of which, if applicable, the Borrower or any Restricted Subsidiary shall have set aside on its books reserves in accordance with GAAP;

(g) (i) deposits and other Liens made in the ordinary course of business in compliance with the Federal Employers Liability Act or any other workers' compensation, unemployment insurance and other social security or similar laws or regulations (other than in respect of employee benefit plans subject to ERISA or similar state, local or foreign laws) and deposits securing liability to insurance carriers under insurance or self-insurance arrangements in respect of such obligations and (ii) deposits and other Liens securing liability for reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefit of) insurance carriers providing property, casualty or liability insurance to the Borrower or any Restricted Subsidiary;

(h) deposits and other Liens to secure the performance of bids, trade contracts (other than for Indebtedness), leases (other than Financing Lease Obligations), tenders, statutory obligations, surety, customs, and appeal bonds, performance and return of money bonds, bids, leases, government contracts, trade contracts, agreements with public utilities, and other obligations of a like nature (including letters of credit in lieu of any such bonds or to support the issuance thereof) incurred by the Borrower or any Restricted Subsidiary in the ordinary course of business, including those incurred to secure health, safety, insurance and environmental obligations in the ordinary course of business;

(i) (i) zoning restrictions, survey exceptions, easements, trackage rights, encroachments, protrusions, leases (other than Financing Lease Obligations), licenses, special assessments, rights-of-way, restrictions on, or agreements dealing with, the use of Real Property, servicing agreements, development agreements, site plan agreements and other similar charges or encumbrances incurred in the ordinary course of business and title defects or irregularities that are of a minor nature and that, in the aggregate, do not interfere in any material respect with the ordinary conduct of the business of the Borrower and its Restricted Subsidiaries, taken as a whole, (ii) ground leases or subleases in respect of Real Property on which facilities owned or leased by the Borrower or any of its Restricted Subsidiaries are located and which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect and (iii) any zoning or similar law or right reserved to, or vested in, any Governmental Authority to control or regulate the use of any Real Property that does not materially interfere with the ordinary course of conduct of the business of the Borrower and its Restricted Subsidiaries, taken as a whole;

(j) Liens securing Indebtedness permitted pursuant to **Section 6.01(j)** (including the interests of vendors and lessors under conditional sale and title retention agreements); **provided** that

(i) [reserved],

(ii) other than the property financed by such Indebtedness, such Liens do not at any time encumber any property, except for replacements thereof and accessions and additions to such property and ancillary rights thereto and the proceeds and the products thereof and customary security deposits, related contract rights and payment intangibles and other assets related thereto and

(iii) with respect to Financing Lease Obligations, such Liens do not at any time extend to, or cover any assets (except for accessions and additions to such assets, replacements and products thereof and customary security deposits, related contract rights and payment intangibles), other than the assets subject to such Financing Lease Obligations and ancillary rights thereto; **provided** that individual financings of equipment provided by a single lender may be cross collateralized to other financings of equipment provided solely by such lender;

(k) [reserved];

(l) Liens securing judgments that do not constitute an Event of Default under **Section 7.01(j)**;

(m) Liens disclosed by any title insurance policies required to be delivered on or subsequent to the Effective Date and pursuant to **Section 5.10**, **5.11** or **5.14** and reasonably acceptable to the Administrative Agent and any replacement, extension or renewal of any such Lien; **provided** that such replacement, extension or renewal Lien shall not cover any property other than the property that was subject to such Lien prior to such replacement, extension or renewal; **provided**, **further**, that the Indebtedness and other obligations secured by such replacement, extension or renewal Lien are permitted by this Agreement;

(n) any interest or title of a lessor, sublessor, licensor or sublicensor under any leases, subleases, licenses or sublicenses entered into by the Borrower or any Restricted Subsidiary as lessee, sublessee, sublessor, licensor or sublicensor in the ordinary course of business;

(o) Liens that are contractual rights of set-off (i) relating to the establishment of depository or custody relations with banks not given in connection with the Incurrence of Indebtedness, (ii) relating to pooled deposit, automatic clearing house or sweep accounts of the Borrower or any Restricted Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower and the Restricted Subsidiaries or (iii) relating to purchase orders and other agreements entered into with customers of the Borrower or any Restricted Subsidiary in the ordinary course of business; **provided**, that Liens permitted pursuant to this clause (o) may be first priority Liens and not subject to any Lien or security interest securing the Secured Obligations;

(p) Liens (i) of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection, (ii) attaching to commodity trading accounts or other commodity brokerage accounts incurred in the ordinary course of business and (iii) in favor of a banking institution arising as a matter of law encumbering deposits (including the right to set off) and which are within the general parameters customary in the banking industry;

(q) Liens securing obligations in respect of trade-related letters of credit permitted under **Section 6.01(g)** and covering the goods (or the documents of title in respect of such goods) financed by such letters of credit and the proceeds and products thereof;

(r) [reserved];

(s) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(t) Liens on the assets of a Restricted Subsidiary that is not a Loan Party that secure Indebtedness of such Restricted Subsidiary that is permitted to be Incurred under **Section 6.01**;

(u) Liens solely on any earnest money deposits of cash or Cash Equivalents made by the Borrower or any of the Restricted Subsidiaries in connection with any letter of intent or purchase agreement permitted hereunder or to secure any letter of credit, bank guarantee or similar instrument issued or posted in respect thereof;

(v) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods or other property and bailee arrangements entered into in the ordinary course of business;

(w) Lien arising by operation of Requirements of Law under **Article 2** of the Uniform Commercial Code (or any similar provision under any other Requirements of Law) in favor of a seller or buyer of goods;

(x) [reserved];

(y) Liens securing Indebtedness or other obligations of the Borrower or a Restricted Subsidiary in favor of the Borrower or any Subsidiary Loan Party and Liens securing Indebtedness or other obligations of any Restricted Subsidiary that is not a Subsidiary Loan Party in favor of any Restricted Subsidiary that is not a Subsidiary Loan Party;

(z) Liens arising from precautionary Uniform Commercial Code financing statements or similar filings or consignments entered into in connection with any transaction otherwise permitted under this Agreement;

(aa) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(bb) leases, subleases, licenses and sublicenses not constituting Financing Lease Obligations of Real Property granted to others in the ordinary course of business that do not, individually or in the aggregate, materially interfere with the ordinary conduct of the business of the Borrower and its Restricted Subsidiaries, taken as a whole;

(cc) [reserved];

(dd) [reserved];

(ee) Liens (i) on advances of cash or Cash Equivalents in favor of the seller of any property to be acquired in an Investment permitted pursuant to **Section 6.04** or **Section 6.07** to be applied against the purchase price for such Investment (or to secure letters of credit, bank guarantee or similar instruments posted or issued in respect thereof), and (ii) consisting of an agreement to Dispose of any property in a Disposition permitted under **Section 6.06** (other than **Section 6.06(b)**), in each case, solely to the extent such Investment or Disposition, as the case may be, would have been permitted on the date of the creation of such Lien;

(ff) Liens on Equity Interests of Joint Ventures (other than a Restricted Subsidiary of the Borrower) or Unrestricted Subsidiaries securing obligations of such Joint Venture or Unrestricted Subsidiaries;

(gg) receipt of progress payments and advances from customers in the ordinary course of business to the extent the same creates a Lien on the related inventory and proceeds thereof;

(hh) Liens on cash or Cash Equivalents used to defease or to satisfy and discharge Indebtedness; **provided** that such defeasance or satisfaction and discharge is permitted hereunder;

(ii) Liens not otherwise permitted by this **Section 6.02**; **provided** that, at the time of the incurrence thereof and after giving pro forma effect thereto and the use of proceeds thereof, the aggregate principal amount of Indebtedness and other obligations then outstanding and secured thereby (when aggregated with the principal amount of Indebtedness secured by Liens Incurred in reliance on, and then outstanding under, **Section 6.02(e)** above in respect of a Refinancing of Indebtedness previously secured under this **Section 6.02(ii)**) does not exceed, except as contemplated by the definition of "Permitted Refinancing Indebtedness", the greater of (x) $180,000,000 and (y) 50% of Consolidated EBITDA of the Borrower and its Restricted Subsidiaries for the Test Period most recently ended on or prior to such date of Incurrence (measured as of the date such Indebtedness is Incurred based upon the Internal Financial Statements most recently available on or prior to such date); **provided** that, if such Liens are consensual Liens secured by Collateral (other than cash or Cash Equivalents), such Liens shall rank junior to the Liens on the Collateral securing the Secured Obligations on the terms set forth in a Customary Intercreditor Agreement. Without any further consent of the Lenders, the Administrative Agent shall be authorized to negotiate, execute and deliver on behalf of the Secured Parties any Customary Intercreditor Agreement or any amendment (or amendment and restatement) to the Security Documents or a Customary Intercreditor Agreement to the extent necessary to effect the provisions contemplated by this **Section 6.02(ii)**;

(jj) Liens on goods or inventory the purchase, shipment or storage price of which is financed by a documentary letter of credit or bankers' acceptance issued or created for the account of the Borrower or any of its Restricted Subsidiaries in the ordinary course of business; **provided** that such Lien secures only the obligations of the Borrower or such Restricted Subsidiaries in respect of such letter of credit to the extent permitted under **Section 6.01**;

(kk) Liens on securities that are the subject of repurchase agreements constituting Investments permitted under Section 6.04;

(ll) the prior rights of consignees and their lenders under consignment arrangements entered into in the ordinary course of business;

(mm) agreements to subordinate any interest of the Borrower or any Restricted Subsidiary in any accounts receivable or other proceeds arising from inventory consigned by the Borrower or any Restricted Subsidiary pursuant to an agreement entered into in the ordinary course of business;

(nn) Liens encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts maintained in the ordinary course of business and, at the time of incurrence thereof, not for speculative purposes;

(oo) Liens securing surety bonds and commercial letters of credit permitted pursuant to **Section 6.01(y)**;

(pp) Liens securing Swap Agreements submitted for clearing in accordance with Requirements of Law;

(qq) [reserved];

(rr) Utility and similar deposits in the ordinary course of business;

(ss) Liens arising in connection with rights of dissenting equityholders pursuant to Requirements of Law;

(tt) Liens arising solely by virtue of any statutory or common law provision relating to banker's liens, rights of set-off or similar rights;

(uu) with respect to any Foreign Subsidiary, Liens arising mandatorily by legal requirements (and not as a result of under-capitalization of such Foreign Subsidiary); and

(vv) Liens on Escrowed Proceeds for the benefit of the related holders of debt securities or other Indebtedness (or the underwriters or arrangers thereof) or on cash set aside at the time of the Incurrence of any Indebtedness or government securities purchased with such cash, in either case to the extent such cash or government securities prefund the payment of interest on such Indebtedness and are held in an escrow account or similar arrangement to be applied for such purpose.

For purposes of determining compliance with this **Section 6.02**, (A) Liens need not be incurred solely by reference to one category of Liens permitted by this **Section 6.02** but are permitted to be incurred in part under any combination thereof and of any other available exemption, (B) in the event that a Lien (or any portion thereof) meets the criteria of one or more of the categories of Liens permitted by this **Section 6.02**, the Borrower may, in its sole discretion, classify or reclassify or later divide, classify or reclassify (as if incurred at such time) such Lien (or any portion thereof) in any manner that complies with this **Section 6.02** and (C) in the event that a portion of Indebtedness or other obligations secured by a Lien could be classified as secured in part pursuant to **Section 6.02(ii)** above (giving pro forma effect to the Incurrence of such portion of such Indebtedness or other obligations), the Borrower, in its sole discretion, may classify such portion of such Indebtedness (and any obligations in respect thereof) as having been secured pursuant to **Section 6.02(ii)** above and thereafter the remainder of the Indebtedness or other obligations as having been secured pursuant to one or more of the other clauses of this **Section 6.02**; provided that, if any of the Consolidated First Lien Leverage Ratio, Consolidated Secured Leverage Ratio, Consolidated Total Leverage Ratio or Consolidated Fixed Charge Coverage Ratio tests, as applicable, for the incurrence of any such Lien would be satisfied on a pro forma basis as of the end of any subsequent fiscal quarter after such incurrence, the reclassification described in this paragraph shall be deemed to have occurred automatically.

With respect to any Lien securing Indebtedness that was permitted to secure such Indebtedness at the time of the incurrence of such Indebtedness, such Lien shall also be permitted to secure any Increased Amount of such Indebtedness. The "Increased Amount" of any Indebtedness shall mean any increase in the amount of such Indebtedness in connection with any accrual of interest, the accretion of accreted value, the amortization of original issue discount or deferred financing costs, the payment of interest in the form of additional Indebtedness with the same terms or in the form of common stock of the Borrower or any Restricted Subsidiary, the payment of dividends on Preferred Stock in the form of additional shares of Preferred Stock of the same class, accretion of original issue discount or deferred financing costs or liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies or increases in the value of property securing any Indebtedness.

SECTION 6.03. **[Reserved]**

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SECTION 6.04. **Investments, Loans and Advances**. The Borrower will not, and will not permit any Restricted Subsidiary to make any Investment in any other Person, except (each of the following exceptions, "**Permitted Investments**"):

(a) Investments (i) existing or contemplated on the Effective Date or (ii) made pursuant to binding agreements in effect on the Effective Date, in each case to the extent listed on **Schedule 6.04** and (iii) in the case of each of **clauses (i)** and **(ii)**, any modification, replacement, renewal, extension or reinvestment thereof, so long as the aggregate amount of all Investments pursuant to this **Section 6.04(a)** is not increased at any time above the amount of such Investments or binding agreements existing or contemplated on the Effective Date, except pursuant to the terms of such Investment or binding agreements existing or so contemplated as of the Effective Date (including as a result of the accrual or accretion of original issue discount or the issuance of payment-in-kind obligations) or as otherwise permitted by this **Section 6.04** or **Section 6.07** (other than **6.07(d)**);

(b)(i) Investments by or among the Borrower or any Subsidiary Loan Party in the Borrower or any Subsidiary Loan Party, (ii) Investments by any Restricted Subsidiary that is not a Subsidiary Loan Party in the Borrower or any other Restricted Subsidiary and (iii) Investments by the Borrower or any Subsidiary Loan Party in any Restricted Subsidiary that is not a Subsidiary Loan Party;

(c) Investments in assets constituting, or at the time of making such Investments were, cash or Cash Equivalents;

(d) Investments arising out of the receipt by the Borrower or any Restricted Subsidiary of noncash consideration from Dispositions permitted under **Section 6.05** or **Section 6.06**;

(e) (A) loans and advances to officers, managers, directors, employees, and consultants of the Borrower or any of its Restricted Subsidiaries (i) to finance the purchase of Equity Interests of the Borrower or any of its Restricted Subsidiaries; **provided** that the amount of such loans and advances used to acquire such Equity Interests shall be contributed to the Borrower in cash as common equity, (ii) for reasonable and customary business related travel expenses, entertainment expenses, moving expenses and similar expenses or payroll expenses, in each case incurred in the ordinary course of business, and (iii) for additional purposes not contemplated by **subclause (i)** or **(ii)** above; **provided** that after giving effect to the making of any such loan or advance, the aggregate principal amount of all loans and advances outstanding under this **Section 6.04(e)(iii)** shall not exceed the greater of $15,000,000 and 4.0% of Consolidated EBITDA of the Borrower and its Restricted Subsidiaries for the Test Period most recently ended on or prior to such date of Investment (measured as of the date such Investment is made based upon the Internal Financial Statements most recently available on or prior to such date) (calculated without regard to write-downs or write-offs thereof), and (B) advances of payroll payments and expenses to employees, consultants or independent contractors or other advances of salaries or compensation to employees, managers, consultants or independent contractors, in each case in the ordinary course of business;

(f) Investments consisting of advances, loans, rebates and extensions of credit in the nature of accounts receivable, notes receivable security deposits and prepayments (including prepayments of expenses) arising and trade credit granted in the ordinary course of business or consistent with past practice, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors and other deposits, prepayments and other credits to suppliers in the ordinary course of business or consistent with past practice;

(g) Investments in Swap Agreements permitted by **Section 6.01(d)** and Cash Management Agreements permitted by **Section 6.01**;

(h) Investments resulting from pledges and deposits referred to in **Sections 6.02(g)**, **(h)**, **(o)**, **(p)**, **(s)**, **(u)**, **(v)**, **(aa)**, **(ee)**, **(gg)**, **(hh)**, **(kk)** and **(nn)**;

(i) extensions of trade credit, asset purchases (including purchases of inventory, Intellectual Property, supplies, material or equipment or other similar assets), the lease or sublease of any asset and the licensing or sublicensing or contribution of Intellectual Property pursuant to joint marketing arrangements with other Persons, in each case in the ordinary course of business;

(j) Investments received (i) in connection with, or as a result of, any bankruptcy, workout, reorganization or recapitalization of suppliers, trade creditors or customers or in settlement or compromise of delinquent obligations and disputes with, or judgments against, or other disputes with, customers, trade creditors or suppliers, including pursuant to any plan of reorganization or similar arrangement upon bankruptcy or insolvency of any customer, trade creditor or supplier, (ii) in satisfaction of judgments against other Persons, (iii) as a result of the foreclosure with respect to any secured Investment or other transfer of title with respect to any secured Investment or (iv) as a result of the settlement, compromise or resolution of litigation, arbitration or other disputes with Person who are not Affiliates;

(k) Investments of a Restricted Subsidiary or held by a Person acquired after the Effective Date or of a Person merged into or consolidated or amalgamated with the Borrower or a Restricted Subsidiary in accordance with **Section 6.05** after the Effective Date to the extent that (i) such acquisition, merger or consolidation is permitted under this **Section 6.04**, (ii) such Investments were not made in contemplation of or in connection with such acquisition, merger or consolidation and (iii) such Investments were in existence on the date of such acquisition, merger or consolidation;

(l) Investments received substantially contemporaneously in exchange for, or the payment of which is made with, Equity Interests of the Borrower; **provided** that (i) no Change in Control would result therefrom, and (ii) such Equity Interests do not constitute Disqualified Equity Interests;

(m) Guarantees by the Borrower or any Restricted Subsidiary of leases or subleases (other than Financing Lease Obligations), Contractual Obligations or other obligations of the Borrower or any Restricted Subsidiary, in each case that do not constitute Indebtedness and are entered into in the ordinary course of business;

(n) [reserved];

(o) Investments constituting Permitted Business Acquisitions;

(p) any additional Investments (including Investments in Minority Investments, Investments in Unrestricted Subsidiaries and Investments in Joint Ventures or similar entities that do not constitute Restricted Subsidiaries), as valued at the Fair Market Value of such Investment at the time each such Investment is made; **provided** that the aggregate amount of such Investment (as so valued) shall not cause the aggregate amount of all such Investments made pursuant to this **Section 6.04(p)** measured at the time such Investment is made to exceed, after giving pro forma effect to such Investment, the sum of (i) an amount not to exceed (A) the greater of (x) $125,000,000 and (y) 35% of Consolidated EBITDA of the Borrower and its Restricted Subsidiaries for the Test Period most recently ended on or prior to such date of Incurrence (measured as of the date such Investment is made based upon the Internal Financial Statements most recently available on or prior to such date), less (B) the aggregate amount of Restricted Payments made in reliance on **Section 6.07(f)(iv)**, less (C) the aggregate amount of prepayments, redemptions, repurchases, defeasances and other payments in respect of Junior Debt made in reliance on **Section 6.10(a)(iii)(D)**, (ii) the Available Equity Amount at such time and (iii) the Available Amount at such time;

(q) Investments in the ordinary course of business consisting of **Article 3** endorsements for collection or deposit and **Article 4** customary trade arrangements with customers consistent with past practices and loans;

(r) Investments consisting of Indebtedness, fundamental changes, Dispositions, Restricted Payments (other than Restricted Investments) and debt payments permitted under **Sections 6.01**, **6.05**, **6.06**, **6.07** and **6.10(a)**;

(s) the forgiveness or conversion to Qualified Equity Interests of any Indebtedness owed by the Borrower or any Restricted Subsidiary and permitted by **Section 6.01**;

(t) Restricted Subsidiaries of the Borrower may be established or created if the Borrower and such Restricted Subsidiary comply with the requirements of **Section 5.11**, if applicable; **provided** that, in each case, to the extent such new Restricted Subsidiary is created solely for the purpose of consummating a transaction pursuant to an acquisition permitted by this **Section 6.04**, and such new Restricted Subsidiary at no time holds any assets or liabilities other than any merger consideration contributed to it contemporaneously with the closing of such transactions, such new Restricted Subsidiary shall not be required to take the actions set forth in **Section 5.11** until the respective acquisition is consummated (at which time the surviving entity of the respective transaction shall be required to so comply in accordance with the provisions thereof);

(u) [reserved];

(v) Investments consisting of earnest money deposits required in connection with purchase agreements or other Permitted Business Acquisitions;

(w) contributions in connection with compensation arrangements to a "rabbi" trust for the benefit of employees, directors, partners, members, consultants, independent contractors or other service providers or other grantor trust subject to claims of creditors in the case of a bankruptcy of the Borrower or any of its Restricted Subsidiaries;

(x) intercompany Investments, reorganizations and related activities among the Borrower and the Restricted Subsidiaries related to tax planning and reorganization (it being understood that the contribution of the Equity Interests of one or more "first-tier" Foreign Subsidiaries to any other Foreign Subsidiary that is a Restricted Subsidiary shall be permitted) (i) contemplated as of the Effective Date or (ii) so long as after giving effect thereto, the security interest of the Lenders in the Collateral, taken as a whole, is not impaired in any material respect;

(y) deposits in the ordinary course of business to secure the performance of Non-Financing Lease Obligations or utility contracts, or in connection with obligations in respect of tenders, statutory obligations, surety, stay and appeal bonds, bids, licenses, leases, government contracts, trade contracts, performance and return-of-money bonds, completion guarantees and other similar obligations (exclusive of obligations for the payment of borrowed money) incurred in the ordinary course of business;

(z) Investments made in the ordinary course of business in connection with (i) obtaining, maintaining or renewing client and customer contracts and (ii) loans or advances made to, and guarantees with respect to obligations of, independent operators, distributors, suppliers, licensors, sublicensors, licensees and sublicensees;

(aa) additional Investments so long as, subject to **Section 1.10**, (x) no Event of Default under **Section 7.01(a)**, **(b)**, **(h)** or **(i)** shall have occurred and be continuing or would result therefrom and (y) after giving pro forma effect to such Investment, the Borrower and the Restricted Subsidiaries would be in compliance, on a pro forma basis, with a Consolidated Total Leverage Ratio, as such ratio is calculated as of the last day of the Test Period most recently ended on or prior to the date of the making of such Investment, as if such Investment and any other transactions being consummated in connection therewith occurred on the first day of such Test Period, of no greater than 4.50:1.00;

(bb) to the extent not required to be applied to prepay the Term Loans in accordance with **Section 2.11(b)**, Investments made in accordance with the definition of "Net Cash Proceeds" with the proceeds received in connection with a Casualty Prepayment Event;

(cc) any Investment in any Subsidiary or any Joint Venture in connection with intercompany cash management arrangements or related activities arising in the ordinary course of business or consistent with past practice;

(dd) Investments in deposit accounts and securities accounts in the ordinary course of business;

(ee) Investments solely to the extent such Investments reflect an increase in the value of Investments otherwise permitted under this **Section 6.04**;

(ff) any additional Investments (including Investments in Minority Investments, Investments in Unrestricted Subsidiaries and Investments in Joint Ventures or similar entities that do not constitute Restricted Subsidiaries), as valued at the Fair Market Value of such Investment at the time each such Investment is made; **provided** that the aggregate amount of such Investment (as so valued) shall not cause the aggregate amount of all such Investments made pursuant to this **Section 6.04(ff)** measured at the time such Investment is made to exceed, after giving pro forma effect to such Investment, an amount equal to the greater of (i) $180,000,000 and (ii) 50% of Consolidated EBITDA of the Borrower and its Restricted Subsidiaries for the Test Period most recently ended on or prior to such date of Incurrence (measured as of the date such Investment is made based upon the Internal Financial Statements most recently available on or prior to such date);

(gg) Term Loans or Senior Secured Notes repurchased by the Borrower or a Restricted Subsidiary pursuant to, and subject to, cancellation in accordance with this Agreement or the Senior Secured Notes Indenture;

(hh) guarantee obligations of the Borrower or any Restricted Subsidiary in respect of letters of support, guarantees or similar obligations issued, made or incurred for the benefit of any Restricted Subsidiary of the Borrower to the extent required by law or in connection with any statutory filing or the delivery of audit opinions performed in jurisdictions other than within the United States;

(ii) acquisitions by the Borrower of obligations of one or more directors, officers, employees, member or management or consultants of the Borrower or its Subsidiaries in connection with such Person's acquisition of Equity Interests of any Parent Entity, so long as no cash is actually advanced by the Borrower or any of its Subsidiaries to such Person in connection with the acquisition of any such obligations;

(jj) Investments made to acquire, purchase, repurchase, redeem, acquire or retire Equity Interests of the Borrower (or any Parent Entity thereof) owned by any employee stock ownership plan or key employee stock ownership plan of the Borrower (or any Parent Entity thereof); and

(kk) Investments in Similar Businesses, as valued at the Fair Market Value of such Investment at the time each such Investment is made; **provided** that the aggregate amount of such Investment (as so valued) shall not cause the aggregate amount of all such Investments made pursuant to this **Section 6.04(kk)** measured at the time such Investment is made to exceed, after giving pro forma effect to such Investment, an amount equal to the greater of (i) $180,000,000 and (ii) 50% of Consolidated EBITDA of the Borrower and its Restricted Subsidiaries for the Test Period most recently ended on or prior to such date of Incurrence (measured as of the date such Investment is made based upon the Internal Financial Statements most recently available on or prior to such date).

For purposes of determining compliance with this **Section 6.04**, (A) Investments need not be incurred solely by reference to one category of Investments permitted by this **Section 6.04** but are permitted to be made in part under any combination thereof and of any other available exemption, (B) in the event that any Investment (or any portion thereof) meets the criteria of one or more of the categories of Investments permitted by this **Section 6.04**, the Borrower shall, in its sole discretion, classify or reclassify, or later divide, classify or reclassify (as if made at such time), such Investment (or any portion thereof) in any manner that complies with the definition thereof and (C) in the event that a portion of any Investment could be classified as having been made pursuant to **Section 6.04(ff)** above (giving pro forma effect to the making of such Investment), the Borrower, in its sole discretion, may classify such portion of such Investment as having been made pursuant to **Section 6.04(ff)** above and thereafter the remainder of such Investment or as having been made pursuant to one or more of the other clauses of this **Section 6.04**; provided that, if the Consolidated Total Leverage Ratio test for the incurrence of any such Investment would be satisfied on a pro forma basis as of the end of any subsequent fiscal quarter after such incurrence, the reclassification described in this paragraph shall be deemed to have occurred automatically

SECTION 6.05. **Fundamental Changes**. The Borrower will not, and will not permit any Restricted Subsidiary to, merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of related transactions) all or substantially all of the assets of the Borrower and its Restricted Subsidiaries, taken as a whole, (whether now owned or hereafter acquired) to or in favor of any Person, except that:

(a) any Subsidiary of the Borrower or any other Person may be merged, amalgamated or consolidated with or into the Borrower or the Borrower may Dispose of all or substantially all of its business units, assets or other properties to another Person; **provided** that,

(i) the Borrower shall be the continuing or surviving Person or, in the case of a merger, amalgamation or consolidation where the Borrower is not the continuing or surviving Person, the Person formed by or surviving any such merger, amalgamation or consolidation (if other than the Borrower) or in connection with a Disposition of all or substantially all of the Borrower's assets, the transferee of such assets or properties, shall, in each case, be an entity organized or existing under the laws of the United States, any state thereof or the District of Columbia (the Borrower or such Person, as the case may be, being herein referred to as the "**Successor Borrower**"),

(ii) the Successor Borrower (if other than the Borrower) shall expressly assume all the obligations of the Borrower under this Agreement and the other Loan Documents pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent, and

(iii) if such merger, amalgamation, consolidation or Disposition involves the Borrower and a Person that, prior to the consummation of such merger, amalgamation, consolidation or Disposition is not a Restricted Subsidiary of the Borrower (A) subject to **Section 1.10**, no Event of Default under **Section 7.01(a)** or **(b)**, **(h)** or **(i)** has occurred and is continuing on the date of such merger, amalgamation, consolidation or Disposition or would result from the consummation of such merger, amalgamation, consolidation or Disposition, (B) each other Loan Party, unless it is the other party to such merger, amalgamation, consolidation or Disposition or unless the Successor Borrower is the Borrower, shall have confirmed by a joinder or supplement to each of the Loan Guaranty and the Security Agreement that its Guarantee and such Subsidiary Loan Party's obligations shall apply to the Successor Borrower's obligations under this Agreement, (C) (1) each Subsidiary Loan Party, unless it is the other party to such merger, amalgamation, consolidation or Disposition or unless the Successor Borrower is the Borrower, shall have by a supplement to the Loan Documents confirmed that its obligations thereunder shall apply to the Successor Borrower's obligations under this Agreement and (2) each mortgagor of a Mortgaged Property, unless it is the other party to such merger, amalgamation, consolidation, conveyance, sale, assignment or transfer or unless the Successor Borrower is the Borrower, shall have by an amendment to or restatement of the applicable Mortgage confirmed that its obligations thereunder shall apply to the Successor Borrower's obligations under this Agreement, (D) the Borrower shall have delivered to the Administrative Agent an officer's certificate stating that such merger, amalgamation, consolidation or Disposition and any supplements to the Loan Documents preserve the enforceability of the Loan Guaranty and the Security Agreement and the perfection of the Liens on the Collateral under the Security Documents, (E) if reasonably requested by the Administrative Agent, the Borrower shall be required to deliver to the Administrative Agent an opinion of counsel to the effect that such merger, amalgamation, consolidation or Disposition does not breach or result in a default under this Agreement or any other Loan Document, and (F) such merger, amalgamation, consolidation or Disposition shall comply with all the conditions set forth in the definition of the term "Permitted Business Acquisition" or is otherwise permitted under **Section 6.04** (other than **6.04(d)** or **6.04(r)**) or **Section 6.07** (other than **6.07(e)** and **6.07(s)**); **provided**, **further**, that, if the foregoing are satisfied, the Successor Borrower (if other than the Borrower) will succeed to, and be substituted for, the Borrower under this Agreement (**provided**, **further**, that, in the event of a Disposition of all or substantially all of the Borrower's assets or property to a Successor Borrower (which is not the Borrower) as set forth above and notwithstanding anything to the contrary in **Section 9.04(a)**, if the original Borrower retains any assets or property other than immaterial assets or property after such Disposition, such original Borrower shall remain obligated as a co-Borrower along with the Successor Borrower hereunder);

(b) any Subsidiary of the Borrower or any other Person may be merged, amalgamated or consolidated with or into any one or more Restricted Subsidiaries of the Borrower or any Restricted Subsidiary may Dispose of all or substantially all of its business units, assets and other properties; **provided** that, (i) in the case of any merger, amalgamation, consolidation or Disposition involving one or more Restricted Subsidiaries, (A) a Restricted Subsidiary shall be the continuing or surviving Person or the transferee of such assets or (B) the Borrower shall take all steps necessary to cause the Person formed by or surviving any such merger, amalgamation, consolidation or the transferee of such assets and properties (if other than a Restricted Subsidiary) to become a Restricted Subsidiary, (ii) [reserved], (iii) in the case of any merger, amalgamation, consolidation or Disposition involving one or more Restricted Subsidiaries, if the surviving Person formed by or surviving any such merger, amalgamation or consolidation or the transferee of such assets and properties is the Borrower or a Restricted Subsidiary, then any Indebtedness of the Borrower or any Restricted Subsidiary assumed by such surviving Person or the transferee of such assets and properties shall be deemed an Incurrence of Indebtedness upon completion of such transaction and such transaction shall be permitted only if such Incurrence is permitted under **Section 6.01** of this Agreement (without giving effect to **Section 6.01(i)**), and (iv) if such merger, amalgamation, consolidation or Disposition involves a Restricted Subsidiary and

a Person that, prior to the consummation of such merger, amalgamation, consolidation or Disposition, is not a Restricted Subsidiary of the Borrower (or, in the case of **clause (B)**, involves any Person that is not a Loan Party), (A) subject to **Section 1.10**, no Event of Default under **Section 7.01(a)**, **(b)**, **(h)** or **(i)** has occurred and is continuing on the date of such merger, amalgamation, consolidation or Disposition or would result from the consummation of such merger, amalgamation, consolidation or Disposition, (B) the Borrower shall have delivered to the Administrative Agent a certificate of a Responsible Officer stating that such merger, amalgamation, consolidation or Disposition and such supplements to any Loan Document preserve the enforceability of the Guarantees and the perfection and priority of the Liens under the Security Documents, and (C) such merger, amalgamation, consolidation or Disposition shall comply with all the conditions set forth in the definition of the term "Permitted Business Acquisition" or is otherwise permitted under **Section 6.04** (other than **6.04(d)** or **6.04(r)**), **Section 6.06** (other than **6.06(b)**) or **Section 6.07** (other than **6.07(e)** and **6.07(s)**);

(c) any Restricted Subsidiary may (i) merge, amalgamate or consolidate with or into the Borrower or any other Restricted Subsidiary and (ii) Dispose of any or all of its assets (upon voluntary liquidation or otherwise) to the Borrower, a Subsidiary Loan Party or any other Restricted Subsidiary of the Borrower;

(d) [reserved];

(e) any Restricted Subsidiary may liquidate or dissolve or change its legal form if (x) the Borrower determines in good faith that such liquidation or dissolution or change of legal form is in the best interests of the Borrower and is not materially disadvantageous to the Lenders and (y) any assets or business not otherwise Disposed of or transferred in accordance with **Section 6.04** (other than **6.04(d)**, **6.04(k)**, **6.04(r)** and **6.04(ee)**), **Section 6.06** or **Section 6.07** (other than **6.07(e)** and **6.07(s)**), or, in the case of any such business, discontinued, shall be transferred to, or otherwise owned or conducted by, the Borrower or (1) if such Restricted Subsidiary is a Subsidiary Loan Party, another Subsidiary Loan Party and (2) if such Restricted Subsidiary is not a Subsidiary Loan Party, another Restricted Subsidiary after giving effect to such liquidation or dissolution or change of legal form; and

(f) the Borrower and the Restricted Subsidiaries may consummate a merger, dissolution, liquidation, consolidation, amalgamation or Disposition, the purpose of which is to (i) effect a Disposition (other than a Disposition of all or substantially all the assets of the Borrower and the Restricted Subsidiaries, taken as a whole) permitted pursuant to **Section 6.06** (other than **Section 6.06(b)**), (ii) reorganize or reincorporate any such Person in the United States, any state thereof, the District of Columbia or, other than the Borrower, any territory thereof, or (iii) convert into a Person organized or existing under the laws of the jurisdiction of organization of such Person or another jurisdiction of the United States, any state thereof, the District of Columbia or, other than the Borrower, any territory thereof; **provided** that, with respect to any of the actions described in **clauses (ii)** and **(iii)** above, the Borrower or applicable Restricted Subsidiary shall have complied with **Section 5.11** and the foregoing provisions of **Sections 6.05(a)** and **6.05(b)**, as applicable.

SECTION 6.06. **Limitation on Sale of Assets**. The Borrower will not, and will not permit any of the Restricted Subsidiaries to, directly or indirectly, (i) convey, sell, lease, assign, transfer, license or otherwise dispose of any of its property, business or assets (including receivables and including pursuant to a Sale Leaseback), whether now owned or hereafter acquired (each, a "**Disposition**"), or (ii) sell to any Person any shares owned by it of any of their respective Restricted Subsidiaries' Equity Interests, except that this Section shall not prohibit the following:

(a) the Borrower and the Restricted Subsidiaries may sell, lease, assign, transfer, license, abandon, allow the expiration or lapse of, or otherwise Dispose of, the following:

(i) obsolete, worn-out, damaged, uneconomic, no longer commercially desirable, used or useful or necessary for the operation of the Borrower's and its Subsidiaries' business, surplus assets, rights and properties and other assets, rights and properties that are no longer used,

(ii) inventory, equipment, service agreements, product sales, securities and goods held for sale or other immaterial assets in the ordinary course of business,

(iii) cash, Cash Equivalents and Investment Grade Securities in the ordinary course of business,

(iv) books of business, client lists or related goodwill in connection with the departure of related employees or producers in the ordinary course of business, and

(v) any such other assets or Equity Interests to the extent that the aggregate Fair Market Value of such assets sold in any single transaction or series of related transactions does not exceed the greater of (x) $50,000,000 and (y) 15% of Consolidated EBITDA of the Borrower and its Restricted Subsidiaries for the Test Period most recently ended on or prior to such date of Disposition (measured as of the date such assets are Disposed based upon the Internal Financial Statements most recently available on or prior to such date);

(b) Dispositions that otherwise constitute Liens permitted by **Section 6.02**, Investments permitted by **Section 6.04**, fundamental change transactions permitted by **Section 6.05** or Restricted Payments permitted by **Section 6.07**;

(c) any swap of assets (including any like-kind exchanges) in exchange for other assets of comparable or greater value or usefulness to the business of the Borrower and the Restricted Subsidiaries as a whole, as determined in good faith by the management of the Borrower, or to the extent that (i) such assets are exchanged for credit against the purchase price of similar or replacement assets or (ii) the proceeds of such Disposition are promptly applied to the purchase price of such replacement assets;

(d) (i) Dispositions of, discounts, forgiveness or write offs of accounts receivable, notes receivable or other current assets in the ordinary course of business or convert accounts receivable to notes receivable or make other Dispositions of accounts receivable in connection with the compromise or collection thereof and (ii) sales or transfers accounts receivable so long as the Net Cash Proceeds of any sale or transfer pursuant to this **clause (ii)** are offered to prepay the Term Loans pursuant to **Section 2.11(b)**;

(e) (i) enter into non-exclusive licenses, sublicenses or cross-licenses of Intellectual Property including in connection with a research and development agreement in which the other party receives a license to Intellectual Property that results from such agreement, (ii) exclusively license, sublicense or cross-license Intellectual Property if done in the ordinary course of business (including in connection with the entry into, or performance of, any franchise agreements or similar arrangement or contract) or if done on terms customary for companies in the industry in which the Borrower and its Restricted Subsidiaries engage, to the extent that such license, sublicense or cross-license does not materially interfere with the ordinary course of conduct of the business of the Borrower and its Restricted Subsidiaries, taken as a whole and (iii) assign, lease, sublease, license or sublicense any real or personal property or terminate or allow to lapse any such assignment, lease, sublease, license or sublicense, other than any Intellectual Property or Equity Interests, in the ordinary course of business;

(f) any Disposition of the Equity Interests in, Indebtedness of, or other securities issued by, Unrestricted Subsidiaries;

(g) Dispositions of Investments (including Equity Interests) in joint ventures (other than a Subsidiary) to the extent required by, or made pursuant to customary buy/sell arrangements between, the joint venture parties set forth in joint venture arrangements and similar binding arrangements;

(h) the unwinding or termination of Swap Agreements or Cash Management Agreements permitted hereunder pursuant to their terms;

(i) Dispositions of properties, rights or assets (including the Disposition or issuance of any Equity Interests) (i) to a Loan Party, (ii) by a Restricted Subsidiary that is not a Subsidiary Loan Party to another Restricted Subsidiary that is not a Subsidiary Loan Party and (iii) by a Loan Party to a Restricted Subsidiary that is not a Subsidiary Loan Party); **provided** that, if the transferor of such property, right or asset is the Borrower or a Subsidiary Loan Party and the transferee thereof is a Restricted Subsidiary that is not a Subsidiary Loan Party, then the Indebtedness of such transferor assumed by such transferee shall be deemed an Incurrence of Indebtedness upon completion of such transaction and such transaction shall be permitted only if such Incurrence is permitted under **Section 6.01** (without giving effect to **Section 6.01(h)**);

(j) transfers of property subject to Casualty Prepayment Events (including foreclosures, condemnation, expropriation, forced disposition, eminent domain or any similar action with respect to assets) upon receipt of the net cash proceeds of such Casualty Prepayment Event;

(k) Dispositions listed on **Schedule 6.06** and Dispositions of (i) non-core or obsolete assets acquired in connection with Permitted Business Acquisitions or other Investments that are not used or useful in, or are surplus to, the business of the Borrower and the Restricted Subsidiaries and (ii) other assets acquired in connection with Permitted Business Acquisitions or other Investments permitted under this Agreement for Fair Market Value; **provided** that any such Dispositions referred to in this **clause (k)** shall be made or contractually committed to be made within 18 months of the date such assets were acquired by the Borrower or such Restricted Subsidiary;

(l) Dispositions not otherwise permitted under this **Section 6.06**; **provided** that

(i) such Disposition shall be for no less than the Fair Market Value of such property at the time of such Disposition,

(ii) with respect to any Disposition pursuant to this **Section 6.06(l)** for a purchase price in excess of the greater of (x) $50,000,000 and (y) 15% of Consolidated EBITDA of the Borrower and its Restricted Subsidiaries for the Test Period most recently ended on or prior to such date of Disposition (measured as of the date such assets are Disposed based upon the Internal Financial Statements most recently available on or prior to such date), the Borrower or a Restricted Subsidiary shall receive not less than 75% of such consideration in the form of cash or Cash Equivalents; **provided**, **however**, for the purposes of determining what constitutes cash under this **clause (ii)**,

(A) any liabilities (as shown on the Borrower's or such Restricted Subsidiary's most recent balance sheet provided hereunder or in the footnotes thereto or if accrued or incurred subsequent to the date of such balance sheets, such liabilities would have been shown on the Borrower's or such Restricted Subsidiary's balance sheet or in

the footnotes thereto as if such accrual or incurrence had taken place on or prior to the date of such balance sheet, as determined in good faith by the Borrower) of the Borrower or such Restricted Subsidiary, other than Junior Debt or other liabilities that are by their terms subordinated in right of payment in cash to the Secured Obligations, that are assumed by the transferee with respect to the applicable Disposition and for which the Borrower and all of the Restricted Subsidiaries shall have been validly released by all applicable creditors in writing shall be deemed to be cash or Cash Equivalents,

(B) any securities, notes or other obligations received by the Borrower or such Restricted Subsidiary from such transferee that are converted by the Borrower or such Restricted Subsidiary into cash or Cash Equivalents (to the extent of the cash or Cash Equivalents received) within 180 days following the closing of the applicable Disposition shall be deemed to be cash or Cash Equivalents, and

(C) any Designated Non-Cash Consideration received by the Borrower or such Restricted Subsidiary in respect of the applicable Disposition having an aggregate Fair Market Value, taken together with all other Designated Non-Cash Consideration received pursuant to this **clause (C)** that is outstanding at the time such Designated Non-Cash Consideration is received, not in excess of the greater of (x) $75,000,000 and (y) 20% of Consolidated EBITDA of the Borrower and its Restricted Subsidiaries for the Test Period most recently ended on or prior to such date of Disposition (measured as of the date such assets are Disposed based upon the Internal Financial Statements most recently available on or prior to such date), with the Fair Market Value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value, shall be deemed to be cash or Cash Equivalents, and

(iii) any non-cash proceeds received in the form of Indebtedness or Equity Interests are pledged to the Administrative Agent to the extent required under the Collateral and Guarantee Requirement;

(m) issue directors' qualifying shares and shares issued to foreign nationals, in each case as required by Requirements of Law;

(n) enter into any netting arrangement of accounts receivable between or among the Borrower and its Restricted Subsidiaries or among Restricted Subsidiaries of the Borrower made in the ordinary course of business;

(o) allow the lapse of, abandon, cancel or cease to maintain or cease to enforce Intellectual Property rights that are no longer (i) used, useful or necessary for, (ii) economically practicable or commercially reasonable to maintain or (iii) in the best interest of or material for the operation of the Borrower's and the Restricted Subsidiaries' businesses (including by allowing any registrations or any applications for registration thereof to lapse), in each case in the ordinary course of business or in the reasonable business judgment of the Borrower;

(p) surrender, terminate or waive any contract rights or surrender, waive, settle, modify, compromise or release any contract rights, litigation claims or any other claims of any kind (including in tort) in the ordinary course of business;

(q) the Borrower may issue Qualified Equity Interests and, to the extent permitted by **Section 6.01**, Disqualified Equity Interests;

(r) to the extent allowable under Section 1031 of the Code or any comparable or successor provision, any exchange of like property (excluding any boot thereon) for use in a similar business;

(s) terminate or otherwise collapse its cost sharing agreements with the Borrower or any Restricted Subsidiary and settle any crossing payments in connection therewith;

(t) convert any intercompany Indebtedness to Equity Interests; **provided**, that such conversion shall not build the Available Equity Amount or any other basket capacity hereunder;

(u) transfer any intercompany Indebtedness (i) to a Loan Party, (ii) from a Restricted Subsidiary that is not a Subsidiary Loan Party to another Restricted Subsidiary that is not a Subsidiary Loan Party and (iii) from a Loan Party to a Restricted Subsidiary that is not a Subsidiary Loan Party), in each under **clauses (ii)** and **(iii)** subject to applicable subordination terms if Indebtedness of a Loan Party is transferred to a Restricted Subsidiary that is not a Loan Party;

(v) settle, discount, write off, forgive or cancel any intercompany Indebtedness or other obligation owing by the Borrower or any Restricted Subsidiary in the ordinary course of business, subject to applicable subordination terms;

(w) settle, discount, write off, forgive or cancel any Indebtedness owing by any present or former consultants, directors, officers or employees of any Parent Entity, the Borrower or any Subsidiary or any of their successors or assigns;

(x) surrender or waive contractual rights and settle or waive contractual or litigation claims; and

(y) Dispositions of any asset between or among the Borrower and/or its Restricted Subsidiaries as a substantially concurrent interim Disposition in connection with a Disposition otherwise permitted pursuant to **clauses (a)** through **(x)** above.

SECTION 6.07. **Limitations on Restricted Payments**. The Borrower will not pay any dividends (other than dividends payable solely in the Qualified Equity Interests of the Borrower) or return any capital to its equity holders or make any other distribution, payment or delivery of property or cash to its equity holders as such, or redeem, retire, purchase or otherwise acquire, directly or indirectly, for consideration, any shares of any class of its Equity Interests or the Equity Interests of any Parent Entity now or hereafter outstanding (or any options or warrants or stock appreciation or similar rights issued with respect to any of its Equity Interests), or set aside any funds for any of the foregoing purposes (but excluding, in each case, the payment of compensation in the ordinary course of business to equity holders of any such Equity Interests who are employees of the Borrower or any Restricted Subsidiary), or permit the Borrower or any of the Restricted Subsidiaries to purchase or otherwise acquire for consideration any shares of any class of the Equity Interests of any Parent Entity of the Borrower or the Equity Interests of the Borrower, now or hereafter outstanding (or any options or warrants or stock appreciation or similar rights issued with respect to any of the Equity Interests of any Parent Entity of the Borrower or the Equity Interests of the Borrower) or make any Restricted Investment (all of the foregoing, "**Restricted Payments**"); **provided** that:

(a) (i) the Borrower may (or may pay Restricted Payments to permit any Parent Entity thereof or any Equityholding Vehicle to) redeem, repurchase, retire or otherwise acquire in whole or in part any Equity Interests ("**Treasury Equity Interests**") of the Borrower or any Restricted Subsidiary or any Equity Interests of any Parent Entity or Equityholding Vehicle, in exchange for another

class of Equity Interests or rights to acquire its Equity Interests or with proceeds from equity contributions or sales or issuances (other than to the Borrower or a Restricted Subsidiary) of Equity Interests of the Borrower or any Parent Entity or Equityholding Vehicle to the extent contributed to the Borrower (in each case other than Disqualified Equity Interests, "**Refunding Equity Interests**") made within 120 days of such contribution or sale or issuance of Refunding Equity Interests and (ii) the Borrower and any Restricted Subsidiary may pay Restricted Payments payable solely in the Equity Interests (other than Disqualified Equity Interests not otherwise permitted by **Section 6.01**) of such Person;

(b) [reserved];

(c) the Borrower may acquire, retire, purchase or redeem any of its Equity Interests (or any options or warrants or equity appreciation rights or similar securities issued with respect to any of such Equity Interests) held by future, current or former officers, managers, consultants, directors, employees and independent contractors (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower (or any Parent Entity) and the Subsidiaries of the Borrower, upon the death, disability, retirement or termination of employment of any such Person or otherwise in accordance with any equity option or equity appreciation or similar rights plan, any management, director and/or employee equity ownership or incentive plan, equity subscription plan or subscription agreement, employment termination agreement or any other employment agreements or equity holders' agreement (including, for the avoidance of doubt, any principal or interest payable on any Indebtedness Incurred by the Borrower in connection with any such redemption, acquisition, retirement or repurchase); **provided** that, the aggregate amount of all cash paid in respect of all such shares of Equity Interests (or any options or warrants or stock appreciation rights or similar securities issued with respect to any of such Equity Interests) so acquired, retired, purchased or redeemed does not exceed the sum of:

(i) the greater of (x) $35,000,000 and (y) 10% of Consolidated EBITDA of the Borrower and its Restricted Subsidiaries for the Test Period most recently ended on or prior to such date of Restricted Payment (measured as of the date such Restricted Payment is made based upon the Internal Financial Statements most recently available on or prior to such date) in any calendar year; notwithstanding the foregoing, 100% of the unused amount of payments in respect of this **Section 6.07(c)(i)** before giving pro forma effect to any carry forward, may be carried forward to the two immediately succeeding calendar years (but not any other) and utilized to make payments pursuant to this **Section 6.07(c)** (any amount so carried forward shall be deemed to be used last in the subsequent calendar year), plus

(ii) all proceeds obtained by the Borrower after the Effective Date from the sale of such Equity Interests to other future, current or former officers, managers, consultants, employees, directors and independent contractors (or their respective Controlled Investment Affiliates or Immediate Family Members) in connection with any plan or agreement referred to above in this **clause (c)**, plus

(iii) all Net Cash Proceeds obtained from any key-man life insurance policies received by the Borrower after the Effective Date, less

the amount of any previous Restricted Payments made pursuant to **clauses (i)** through **(iii)** of this **Section 6.07(c)**; and **provided**, **further**, that, the cancellation of Indebtedness owing to the Borrower or any Restricted Subsidiary from any future, current or former employees, officers, managers, directors, consultants or independent contractors (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower, or any of the Restricted Subsidiaries in connection with a redemption, acquisition, retirement or repurchase of its Equity Interests will not be deemed to constitute a Restricted Payment for purposes of this Agreement;

(d) (i) to the extent constituting Restricted Payments (other than Restricted Investments), the Borrower and any Restricted Subsidiary may make Investments permitted by **Section 6.04** (other than **6.04(a)** and **6.04(r)**) and (ii) each Restricted Subsidiary may make Restricted Payments to the Borrower and to Restricted Subsidiaries (and, in the case of a Restricted Payment by a non-Wholly Owned Restricted Subsidiary, to the Borrower and any Restricted Subsidiary and to each other owner of Equity Interests of such Restricted Subsidiary based on their relative ownership interests);

(e) to the extent constituting Restricted Payments, the Borrower and any Restricted Subsidiary may enter into and consummate transactions expressly permitted by any provision of **Section 6.05** (other than **6.05(a)(iii)(F)**, **6.05(b)(iv)(C)** and **6.05(e)**) and **6.06** (other than **6.06(b)**), and the Borrower may pay Restricted Payments to any Parent Entity thereof as and when necessary to enable such Parent Entity to effect the transactions permitted by such section;

(f) in addition to the foregoing Restricted Payments

(i) the Borrower may make additional Restricted Payments, so long as (x) no Event of Default shall have occurred and be continuing or would result therefrom and (y) after giving pro forma effect to such Restricted Payment, the Borrower would be in compliance, on a pro forma basis, with a Consolidated Total Leverage Ratio, calculated as of the last day of the Test Period most recently ended on or prior to the date of making of such Restricted Payment, as if such Restricted Payment and any other transactions being consummated in connection therewith occurred on the first day of such Test Period, of no greater than 4.00:1.00,

(ii) the Borrower may make additional Restricted Payments in an aggregate amount not to exceed an amount equal to the Available Amount at the time such Restricted Payment is paid, so long as, (x) no Event of Default shall have occurred and be continuing or would result therefrom and (y) with respect to any use of the Available Amount Builder Basket only, after giving pro forma effect to such Restricted Payment, the Borrower would be in compliance, on a pro forma basis, with a Consolidated Fixed Charge Coverage Ratio, calculated as of the last day of the Test Period most recently ended on or prior to the date of payment of such Restricted Payment, as if such Restricted Payment and any other transactions being consummated in connection therewith occurred on the first day of such Test Period, of at least 2.00:1.00,

(iii) the Borrower may make additional Restricted Payments in an aggregate amount not to exceed an amount equal to the Available Equity Amount at the time such Restricted Payment is paid, and

(iv) so long as no Event of Default shall have occurred and be continuing or would result therefrom, the Borrower may make additional Restricted Payments; **provided** that the amount of any such Restricted Payment shall not cause the aggregate amount of all Restricted Payments made pursuant to this **Section 6.07(f)(iv)** measured at the time such Restricted Payment is made to exceed, after giving pro forma effect to such Restricted Payment, an amount equal to (A) the greater of (x) $125,000,000 and (y) 35% of Consolidated EBITDA of the Borrower and its Restricted Subsidiaries for the Test Period most recently ended on or prior to such date of Restricted Payment (measured as of the date such Restricted Payment is made based upon the Internal Financial Statements most recently available on or prior to such date), less (B) the aggregate amount of Investments made in reliance on **Section 6.04(p)(i)**, less (C) the aggregate amount of prepayments, redemptions, repurchases, defeasances and other payments in respect of Junior Debt made in reliance on **Section 6.10(a)(iii)(D)**;

(g) any Person may make Restricted Payments to minority shareholders of any Subsidiary that is acquired pursuant to a Permitted Business Acquisition or similar Investment permitted by **Section 6.04** pursuant to appraisal or dissenters' rights with respect to shares of such Subsidiary held by such shareholders;

(h) any Person may make noncash repurchases of Equity Interests deemed to occur upon exercise of options of warrants if such Equity Interests represent all or a portion of the exercise price of such options and warrants;

(i) the Borrower may make and pay Restricted Payments:

(i) to the extent the Borrower is filing an income tax return as a member of a consolidated, combined, unitary or aggregate group with a Parent Entity, the proceeds of which shall be used to pay (or to make Restricted Payments to allow any Parent Entity of the Borrower to pay) any tax liability in respect of income attributable to the Borrower and its Subsidiaries, but not in excess of the tax liability that the Borrower would incur if it filed tax returns as the parent of a consolidated, combined, unitary or aggregate group for itself and its Subsidiaries (and net of any payment already made and to be made by the Borrower or its Subsidiaries to a taxing authority to satisfy such tax liability); **provided** that a Restricted Payment attributable to any taxes attributable to an Unrestricted Subsidiary shall be permitted only to the extent such Unrestricted Subsidiary distributed cash to the Borrower or its Restricted Subsidiaries;

(ii) [reserved];

(iii) the proceeds of which shall be used to pay (or to make Restricted Payments to allow any Parent Entity of the Borrower to pay) franchise, excise and similar taxes and other fees, taxes and expenses, in each case, required to maintain its (or any of its Parent Entities') corporate or other legal existence;

(iv) the proceeds of which shall be used to make Investments contemplated by **Section 6.04(e)**;

(v) the proceeds of which shall be used to pay (or to make Restricted Payments to allow any Parent Entity of the Borrower to pay) fees and expenses (other than to Affiliates of the Borrower) related to any successful or unsuccessful equity issuance or offering or Incurrence of Indebtedness, Refinancing, Disposition or acquisition or Investment transaction permitted by this Agreement; and

(vi) to the extent not constituting a Restricted Investment, the proceeds of which shall be used to finance Investments that would otherwise be permitted to be made pursuant to **Section 6.04** (other than **6.04(a)** or **6.04(ee)**) or as a Restricted Investment pursuant to **Section 6.07** if made by the Borrower or a Restricted Subsidiary; **provided** that

(A) such Restricted Payment shall be made substantially concurrently with the closing of such Investment,

(B) such Parent Entity shall, immediately following the closing thereof, cause (A) all property acquired (whether assets or Equity Interests) to be contributed to the capital of the Borrower or one of the Restricted Subsidiaries and such contribution shall be Not Otherwise Applied or (B) the merger, consolidation or amalgamation of the Person formed or acquired with or into the Borrower or one of the Restricted Subsidiaries (to the extent permitted by **Section 6.05** (other than **6.05(a)(iii)(F)**, **6.05(b)(iv)(C)** and **6.05(e)**)) in order to consummate such Investment, and

(C) such Parent Entity and its Affiliates (other than the Borrower or a Restricted Subsidiary) receives no consideration or other payment in connection with such transaction except to the extent the Borrower or a Restricted Subsidiary could have otherwise given such consideration or made such payment in compliance with this Agreement;

(j) the Borrower may (or may make Restricted Payments to allow any Parent Entity to) (i) pay cash in lieu of the issuance of fractional shares in connection with any Restricted Payment (including in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Equity Interests), share split, reverse share split or combination thereof or any Acquisition or other Investment and (ii) honor any conversion request by a holder of convertible Indebtedness and make cash payments in lieu of fractional shares in connection with any such conversion and may make payments on convertible Indebtedness in accordance with its terms;

(k) the payment of Restricted Payments within 60 days after the date of declaration thereof, if at the date of declaration of such payment, such payment would have complied with the other provisions of this **Section 6.07**;

(l) to the extent constituting Restricted Payments, the Borrower and any Restricted Subsidiary may enter into and consummate transactions expressly permitted by any provision of **Section 6.05**, and the Borrower may make Restricted Payments to any Parent Entity thereof as and when necessary to enable such Parent Entity to effect the transactions permitted by such section;

(m) the Borrower and its Restricted Subsidiaries may pay Restricted Payments in an amount equal to withholding or similar taxes payable or expected to be payable by any future, current or former employee, director, manager, consultant or independent contractor (or any of their respective Immediate Family Members) of the Borrower or any Subsidiary of the Borrower in connection with the exercise or vesting of Equity Interests or other equity awards or any repurchases, redemptions, acquisitions, retirements or withholdings of Equity Interests in connection with any exercise of Equity Interests or other equity options or warrants or the vesting of Equity Interests or other equity awards if such Equity Interests represent all or a portion of the exercise price of, or withholding obligation with respect to, such options or, warrants or other Equity Interests or equity awards;

(n) to the extent permitted by **Section 6.04**, any Restricted Subsidiary that is not a Wholly Owned Subsidiary may repurchase its Equity Interests from any owner of the Equity Interests of such Restricted Subsidiary that is not the Borrower or a Restricted Subsidiary; and

(o) the Borrower may make payments described in **Sections 6.08(a)**, **(c)**, **(e)**, **(f)**, **(h)**, **(k)** and **(s)**;

(p) so long as no Event of Default shall have occurred and be continuing or would result therefrom, the Borrower may make Restricted Payments constituting non-extraordinary dividends on its Equity Interests; and

(q) the Borrower may make payments made to optionholders or holders of profits interests of the Borrower in connection with, or as a result of, any distribution being made to shareholders of the Borrower (to the extent such distribution is otherwise permitted hereunder), which payments are being made to compensate such optionholders or holders of profits interests as though they were shareholders at the time of, and entitled to share in, such distribution (it being understood that no such payment may be made to an optionholder or holder of profits interests pursuant to this clause to the extent such payment would not have been permitted to be made to such optionholder or holder of profits interests if it were a shareholder pursuant to any other paragraph of this **Section 6.07**, and any payment hereunder shall reduce payments available under such other paragraph);

(r) the Borrower may pay Restricted Payments to pay for the redemption, acquisition, retirement or repurchase, in each case for nominal value, of Equity Interests of the Borrower from a former investor of a business acquired in an Acquisition or other Investment or a current or former employee, officer, director, manager or consultant of a business acquired in an Acquisition or other Investment (or their Controlled Investment Affiliates or Immediate Family Members), which Equity Interests was issued as part of an earn-out or similar arrangement in the acquisition of such business, and which redemption, acquisition, retirement or repurchase relates the failure of such earn-out to fully vest;

(s) the Borrower may make payments or distributions to dissenting equityholders in connection with, or as a result of, their exercise of appraisal rights and the settlement of any claims or actions (whether actual, contingent or potential) with respect thereto (including any accrued interest) in connection with any permitted Acquisitions or similar Investments or transfer of assets that complies with **Section 6.05** (other than **6.05(a)(iii)(F)**, **6.05(b)(iv)(C)** and **6.05(e)**);

(t) the Borrower may make Restricted Payments in an aggregate amount that does not exceed the aggregate amount of Excluded Contributions received since the Effective Date and Not Otherwise Applied (for the avoidance of doubt, not otherwise building Available Equity Amount, constituting a Cure Amount or used to incur Indebtedness);

(u) the Borrower may make distributions, by Restricted Payment or otherwise, or other transfer or Disposition of shares of Equity Interests of Unrestricted Subsidiaries (other than Unrestricted Subsidiaries the primary assets of which are Cash Equivalents); and

(v) the declaration and payment of dividends on the Borrower's common equity (or the payment of dividends to any Parent Entity to fund a payment of dividends on such entity's common equity) or the redemption, purchase, repurchase, defeasance or other acquisition or retirement of any Equity Interests of the Borrower in an amount not to exceed 6.0% per annum of the net cash proceeds received by or contributed to the Borrower in or from any public offering of the Borrower's common equity or the common equity of any Parent Entity, other than public offerings with respect to the Borrower's common equity registered on Form S-8 and other than any public sale constituting an Excluded Contribution (for the avoidance of doubt, not otherwise building Available Equity Amount, constituting a Cure Amount or used to incur Indebtedness).

The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the assets or securities proposed to be transferred or issued by the Borrower or any Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment. For the avoidance of doubt, this **Section 6.07** shall not restrict the making of any AHYDO Catch-Up Payment with respect to, and required by the terms of, any Indebtedness of the Borrower or any of the Restricted Subsidiaries permitted to be incurred under the terms of this Agreement. Indebtedness Incurred under **Section 6.01(t)** shall reduce availability under this **Section 6.07** in an amount equal to the aggregate principal amount incurred from time to time under **Section 6.01(t)**, whether or not outstanding, except in respect of amounts forgiven or cancelled without payment being made.

For purposes of determining compliance with this **Section 6.07**, (A) Restricted Payments need not be made solely by reference to one category of Restricted Payments permitted by this **Section 6.07** but are permitted to be made in part under any combination thereof and of any other available exemption, (B) in the event that any Restricted Payment (or any portion thereof) meets the criteria of one or more of the categories of Restricted Payments permitted by this **Section 6.07**, the Borrower shall, in its sole discretion, classify or reclassify, or later divide, classify or reclassify, such Restricted Payment (or any portion thereof) in any manner that complies with the definition thereof and (C) in the event that a portion of any Restricted Payment could be classified as having been made pursuant to **Section 6.07(f)(iv)** above (giving pro forma effect to the making of such Restricted Payment), the Borrower, in its sole discretion, may classify such portion of such Restricted Payments as having been made pursuant to **Section 6.07(f)(iv)** above and thereafter the remainder of such Restricted Payment or as having been made pursuant to one or more of the other clauses of this **Section 6.07**; **provided** that if the Consolidated Total Leverage Ratio test for the incurrence of any such Restricted Payment would be satisfied on a pro forma basis as of the end of any subsequent fiscal quarter after such incurrence, the reclassification described in this paragraph shall be deemed to have occurred automatically.

SECTION 6.08. **Transactions with Affiliates**. The Borrower will not, and will not permit any Restricted Subsidiary to, sell or transfer any property or assets to, or purchase or acquire any property or assets from, or otherwise engage in any other transaction with, any of its Affiliates, involving aggregate payments or consideration for any such transaction or series of related transactions in excess of the greater of (x) $25,000,000 and (y) 7.5% of Consolidated EBITDA of the Borrower and its Restricted Subsidiaries for the Test Period most recently ended on or prior to such date of transaction (measured as of the date such transaction is made based upon the Internal Financial Statements most recently available on or prior to such date) unless such transaction is upon terms substantially as favorable to the Borrower or such Restricted Subsidiary, as applicable, as would be obtainable at the time in a comparable arm's-length transaction with a Person that is not an Affiliate, except for:

(a) the indemnification and expense reimbursement of the Controlling Shareholder and its Affiliates in connection with the management or monitoring of, or the provision of other services rendered to, the Borrower or any of its Subsidiaries;

(b) any issuance of Equity Interests, or other payments, awards or grants in cash, securities, Equity Interests or otherwise pursuant to, or the funding of, employment arrangements, equity purchase agreements, deferred compensation agreements, stock options and stock ownership plans or similar employee benefit plans approved by the Board of Directors of the Borrower;

(c) loans or advances to officers, directors, employees or consultants of the Borrower or any of the Restricted Subsidiaries to the extent permitted by **Section 6.04(e)**;

(d) transactions among the Borrower and the Restricted Subsidiaries and transactions among the Restricted Subsidiaries or any Person that becomes a Restricted Subsidiary as a result of any such transactions;

(e) so long as no Event of Default has occurred and is continuing or would be caused thereby, the Borrower and its Restricted Subsidiaries may pay annual management, consulting, monitoring and advisory fees to the Controlling Shareholder in an aggregate total amount in any Fiscal Year not to exceed the greater of (i) $1,000,000 and (ii) 1.0% of Consolidated EBITDA of the Borrower and its Restricted Subsidiaries for the Test Period most recently ended on or prior to such date of payment (measured as of the date such payment is made based upon the Internal Financial Statements most recently available on or prior to such date);

(f) the existence of, or the performance by the Borrower or any of its Restricted Subsidiaries of its obligations under the terms of, any agreements set forth on Schedule 6.08 and any amendment thereto or replacement agreement which it may enter into thereafter; **provided**, **however**, that the existence of, or the performance by the Borrower or any of its Restricted Subsidiaries of its obligations under, any future amendment to any such existing agreement or under any replacement agreement entered into after the Effective Date shall only be permitted by this clause (f) to the extent that the terms of any such existing agreement together with all amendments thereto, taken as a whole, or replacement agreement are not otherwise more disadvantageous to the Lenders in any material respect than the original agreement as in effect on the Effective Date;

(g) transactions to effect the Transactions and the payment of all fees and expenses related to the Transactions;

(h) employment agreements and severance arrangements and health, disability and similar insurance or benefit plans between the Borrower and the Restricted Subsidiaries and their respective directors, officers, employees (including management and employee benefit plans or agreements, subscription agreements or similar agreements pertaining to the repurchase of Equity Interests pursuant to put/call rights or similar rights with present or former employees, officers or directors and stock option or incentive plans and other compensation arrangements) in the ordinary course of business or as otherwise approved by the Board of Directors of the Borrower;

(i) Restricted Payments permitted by, and complying with the provisions of, **Section 6.07**;

(j) any purchase by the Controlling Shareholder or any director, officer, employee or consultant of the Borrower of Equity Interests Borrower or any contribution by a Parent Entity to, or purchases of, Equity Interests of the Borrower;

(k) so long as no Event of Default shall have occurred and be continuing or would result therefrom, payments (including reimbursement of out-of-pocket costs and expenses) by the Borrower or any of the Restricted Subsidiaries to the Controlling Shareholder made for any customary financial advisory, financing, underwriting or placement services or in respect of other investment banking activities, including in connection with acquisitions or divestitures (and whether or not consummated or completed), which payments are approved by the majority of the Board of Directors of the Borrower, in good faith;

(l) transactions with Wholly Owned Restricted Subsidiaries for the purchase or sale of goods, products, parts and services entered into in the ordinary course of business and in a manner consistent with prudent business practice followed by other companies in the industry in which the Borrower and its Subsidiaries engage;

(m) any transaction in respect of which the Borrower delivers to the Administrative Agent (for delivery to the Lenders) a letter addressed to the Board of Directors of the Borrower from an accounting, appraisal or investment banking firm, in each case of nationally recognized standing that is (A) in the good faith determination of the Borrower qualified to render such letter and (B) reasonably satisfactory to the Administrative Agent, which letter states that such transaction is on terms that are substantially as favorable to the Borrower or such Restricted Subsidiary, as applicable, as would be obtainable at such time in a comparable arm's-length transaction with a Person that is not an Affiliate;

(n) transactions with customers, clients, suppliers, or purchasers or sellers of goods or services, in each case in the ordinary course of business and otherwise in compliance with the terms of this Agreement that are fair to the Borrower or the Restricted Subsidiaries;

(o) transactions with joint ventures for the purchase or sale of goods, equipment and services entered into in the ordinary course of business and in a manner consistent with prudent business practice followed by other companies in the industry in which the Borrower and its Subsidiaries engage;

(p) equity issuances, repurchases, retirements, redemptions or other acquisitions or retirements of Equity Interests by the Borrower permitted under **Section 6.07**;

(q) [reserved];

(r) any agreements or arrangements between a third party and an Affiliate of the Borrower that are acquired or assumed by the Borrower or any Restricted Subsidiary in connection with an acquisition or merger of such third party (or assets of such third party) by or with the Borrower or any Restricted Subsidiary; **provided** that (A) such acquisition or merger is permitted under this Agreement and (B) such agreements or arrangements are not entered into in contemplation of such acquisition or merger or otherwise for the purpose of avoiding the restrictions imposed by this **Section 6.08**;

(s) the payment of fees and reasonable out-of-pocket costs to, and indemnities to, directors, managers, officers, employees and consultants of the Borrower and the Restricted Subsidiaries in the ordinary course of business; and

(t) licenses, sublicenses and cross-licenses involving any Intellectual Property of the Borrower or any Restricted Subsidiary between the Borrower and the Restricted Subsidiaries in the ordinary course of business, or otherwise in compliance with the terms of this Agreement and on terms that are fair to the Borrower or the Restricted Subsidiaries.

SECTION 6.09. **[Reserved]**.

SECTION 6.10. **Limitation on Modifications and Payments of Junior Debt; Restrictive Agreements**. The Borrower will not, and will not permit any of the Restricted Subsidiaries to:

(a) prepay, repurchase, redeem or otherwise defease or make similar payments in respect of any Material Junior Debt on or prior to the date that occur earlier than one year prior to the stated maturity (it being understood that payments of regularly scheduled interest, fees, expenses, indemnification obligations and, so long as no Event of Default under **Section 7.01(a)**, **(b)**, **(h)** or **(i)** is continuing or would result therefrom, AHYDO Catch-Up Payments shall be permitted); **provided**, **however**, the Borrower or any Restricted Subsidiary may prepay, repurchase, redeem, defease, acquire or otherwise make payments on any such Material Junior Debt

(i) with the proceeds of any Permitted Refinancing Indebtedness in respect of such Indebtedness,

(ii) by converting or exchanging any such Indebtedness to Qualified Equity Interests of the Borrower, and

(iii) (A) so long as (x) no Event of Default has occurred and is continuing or would result therefrom and (y) after giving pro forma effect to such prepayment, repurchase,

redemption, defeasance, acquisition or other payment, the Borrower would be in compliance, on a pro forma basis, with a Consolidated Total Leverage Ratio, calculated as of the last day of the Test Period most recently ended on or prior to the date of any such payment, as if such prepayment, repurchase, redemption, defeasance, acquisition or other payment and any other transactions being consummated in connection therewith occurred on the first day of such Test Period, of no greater than 4.50:1.00 after giving pro forma effect thereto,

(B) in an aggregate amount not to exceed the Available Amount at the time of such prepayment, repurchase, redemption, defeasance, acquisition or other payment, so long as (x) no Event of Default has occurred and is continuing or would result therefrom and (y) with respect to any use of the Available Amount Builder Basket only, after giving pro forma effect to such prepayment, repurchase, redemption, defeasance, acquisition or other payment, the Borrower would be in compliance, on a pro forma basis, with a Consolidated Fixed Charge Coverage Ratio, calculated as of the last day of the Test Period most recently ended on or prior to the date of payment of such prepayment, repurchase, redemption, defeasance, acquisition or other payment, as if such prepayment, repurchase, redemption, defeasance, acquisition or other payment and any other transactions being consummated in connection therewith occurred on the first day of such Test Period, of at least 2.00:1.00,

(C) in an aggregate amount not to exceed the Available Equity Amount at the time of such prepayment, redemption, repurchase, defeasance, acquisition or other payment, and

(D) in an aggregate amount that shall not cause the aggregate amount of all such prepayments, repurchases, redemptions, defeasances, acquisitions or other payments made pursuant to this **Section 6.10(a)(iii)(D)** measured at the time such prepayment, repurchase, redemption, defeasance, acquisition or other payment is made to exceed, after giving pro forma effect thereto, an amount equal to (A) the greater of (x) $125,000,000 and (y) 35% of Consolidated EBITDA of the Borrower and its Restricted Subsidiaries for the Test Period most recently ended on or prior to such date of prepayment, repurchase, redemption, defeasance, acquisition or other payment (measured as of the date such prepayment, repurchase, redemption, defeasance, acquisition or other payment is made based upon the Internal Financial Statements most recently available on or prior to such date), less (B) the aggregate amount of Investments made in reliance on **Section 6.04(p)(i)**, less (C) the aggregate amount of Restricted Payments made in reliance on **Section 6.07(f)(iv)**,

(iv) of Indebtedness acquired pursuant to **Section 6.01(h)**, so long as such purchase, repurchase, redemption, defeasance or other acquisition or similar payment is made or deposited with a trustee or other similar representative of the holders of such Junior Debt contemporaneously with, or substantially simultaneously with, the closing of the Acquisition under which such Junior Debt is Incurred and

(v) within 60 days of the date of the Redemption Notice if, at the date of any payment, redemption, repurchase, retirement, termination or cancellation notice in respect thereof (the "Redemption Notice"), such payment, redemption, repurchase, retirement termination or cancellation would have complied with another provision of this **Section 6.10(a)**; **provided** that such payment, redemption, repurchase, retirement termination or cancellation shall reduce capacity under such other provision.

For purposes of determining compliance with this **Section 6.10**, (A) Junior Debt Payments need not be made solely by reference to one category of Junior Debt Payments permitted by this **Section 6.10** but are permitted to be made in part under any combination thereof and of any other available exemption, (B) in the event that any Junior Debt Payment (or any portion thereof) meets the criteria of one or more of the categories of Junior Debt Payments permitted by this **Section 6.10**, the Borrower shall, in its sole discretion, classify or reclassify, or later divide, classify or reclassify, such Junior Debt Payment (or any portion thereof) in any manner that complies with the definition thereof and (C) in the event that a portion of any Junior Debt Payment could be classified as having been made pursuant to **Section 6.10(a)(iii)(D)** above (giving pro forma effect to the making of such Junior Debt Payment), the Borrower, in its sole discretion, may classify such portion of such Junior Debt Payments as having been made pursuant to **Section 6.10(a)(iii)(D)** above and thereafter the remainder of such Junior Debt Payment or as having been made pursuant to one or more of the other clauses of this **Section 6.10**; **provided** that, if the Consolidated Total Leverage Ratio test for the making of any such Junior Debt Payment would be satisfied on a pro forma basis as of the end of any subsequent fiscal quarter after such incurrence, the reclassification described in this paragraph shall be deemed to have occurred automatically.

Notwithstanding the foregoing and for the avoidance of doubt, nothing in this **Section 6.10** shall prohibit (i) the repayment, prepayment, repurchase, redemption or other payment of intercompany subordinated Indebtedness owed among the Borrower and/or the Restricted Subsidiaries, in either case unless an Event of Default has occurred and is continuing and the Borrower has received a notice from the Administrative Agent instructing it not to make or permit the Borrower and/or the Restricted Subsidiaries to make any such repayment or prepayment or (ii) substantially concurrent transfers of credit positions in connection with intercompany debt restructurings so long as such Indebtedness is permitted by **Section 6.01** after giving pro forma effect to such transfer.

(b) The Borrower will not, and will not permit any of the Restricted Subsidiaries to, amend or modify any provision of the documentation governing any Material Junior Debt (including any Permitted Refinancing Indebtedness in respect thereof), other than amendments or modifications that, when taken as a whole, (A) are not in any manner materially adverse to the Lenders and that do not affect the subordination provisions thereof (if any) in a manner adverse to the Lenders or (B) otherwise comply with the definition of "Permitted Refinancing Indebtedness".

(c) The Borrower will not, nor will it permit any Restricted Subsidiary to enter into any agreement or instrument that by its terms restricts (i) the ability of any Restricted Subsidiary that is not a Subsidiary Loan Party to pay dividends or distributions or make other distributions on its Equity Interests to the Borrower or any Loan Party that is a direct or indirect parent of such Restricted Subsidiary or (ii) the ability of the Borrower or any Loan Party to create, incur, assume or permit to exist Liens on the property of such Person pursuant to the Security Documents to secure the Secured Obligations, in each case, other than those arising under any Loan Document or the Senior Secured Note Document, except, in each case, restrictions existing by reason of:

(A) restrictions imposed by applicable Requirements of Law;

(B) contractual encumbrances or restrictions (1) in effect on the Effective Date with respect to Liens permitted under **Section 6.02(a)** or as otherwise disclosed on **Schedule 6.10**, (2) on the granting of Liens pursuant to any documentation governing any Indebtedness (including any Permitted Refinancing Indebtedness in respect thereof) incurred in compliance with **Section 6.01**, in each case, no less favorable, when taken as a whole, to the Lenders than those restrictions set forth in the Loan Documents, or (3) pursuant to documentation related to any permitted amendment, modification, renewal, increase, supplement or other refinancing of any Indebtedness

existing on the Effective Date that does not expand the scope of any such encumbrance or restriction in any material respect or make such restriction more onerous in any material respect than those prior to such amendment, modification, renewal, increase, supplement or other refinancing;

(C) any restriction on the Equity Interests or assets of a Restricted Subsidiary imposed pursuant to an agreement entered into for the sale or Disposition of such Equity Interests or assets permitted under **Section 6.06** pending the closing of such sale or Disposition;

(D) customary provisions in joint venture agreements and other similar agreements applicable to the assets of, or the Equity Interests in, joint ventures;

(E) (i) any restrictions imposed by any agreement relating to Indebtedness permitted by **Section 6.01** and secured by a Lien permitted by **Section 6.02** (other than **Section 6.02(y)**) to secure such Indebtedness to the extent that such restrictions apply only to the property or assets securing such Indebtedness, and (ii) restrictions imposed by other Indebtedness, Disqualified Equity Interests or preferred stock permitted to be incurred subsequent pursuant to **Section 6.01** and either (x) the provisions relating to such encumbrance or restriction contained in such Indebtedness, Disqualified Equity Interests or preferred stock are no less favorable to the Borrower, taken as a whole, as determined by the board of directors of the Borrower in good faith, than the provisions contained in this Agreement as in effect on the Effective Date or (y) any such encumbrance or restriction contained in such Indebtedness, Disqualified Equity Interests or preferred stock does not prohibit (except upon a default or an event of default thereunder) the payment of dividends in an amount sufficient, as determined by the board of directors of the Borrower in good faith, to make scheduled payments of cash interest on the Loans when due;

(F) customary provisions contained in leases, subleases, licenses, sublicenses or cross licenses of Intellectual Property and other similar agreements entered into in the ordinary course of business;

(G) customary provisions restricting subletting or assignment of any lease governing a leasehold or subleasehold interest;

(H) customary provisions restricting assignment of any agreement entered into in the ordinary course of business;

(I) customary restrictions and conditions contained in any agreement relating to the sale of any asset permitted under **Section 6.06** applicable to the asset to be sold pending the consummation of such sale;

(J) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;

(K) customary provisions contained in leases, subleases, licenses, sublicenses, cross licenses, contracts and other similar agreements entered into in the ordinary course of business that impose restrictions on the property subject to such agreements;

(L) purchase money obligations for property acquired in the ordinary course of business and Capital Lease Obligations that impose restrictions on transferring the property so acquired;

(M) any agreement or other instrument of a Person acquired by or merged or consolidated with or into the Borrower or any Restricted Subsidiary, or of an Unrestricted Subsidiary that is designated a Restricted Subsidiary, or that is assumed in connection with the acquisition of assets from such Person, in each case that is in existence at the time of such transaction (but not created in contemplation thereof), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person and its Subsidiaries, or the property or assets of the Person and its Subsidiaries, so acquired or designated; and

(N) customary net worth provisions contained in Real Property leases entered into by Subsidiaries of the Borrower, so long as the Borrower has determined in good faith that such net worth provisions could not reasonably be expected to impair the ability of the Borrower and its Subsidiaries to meet their ongoing obligation.

SECTION 6.11. **Consolidated Leverage Ratio**. Solely with respect to the Revolving Facility and subject to the following proviso, the Borrower will not permit the Consolidated First Lien Leverage Ratio as of the last day of any Test Period (commencing with the Test Period ending on or about September 30, 2021, if applicable) ending on any date set forth below to be greater than the ratio set forth below opposite such date; **provided, however**, that the Borrower shall be required to be in compliance with this **Section 6.11** with respect to any Test Period only if the sum of (A) the aggregate principal amount of all Revolving Loans plus (B) the aggregate LC Exposure (other than (i) Letters of Credit Cash Collateralized in an amount equal to the Stated Amount thereof and (ii) without duplication of amounts described in clause (i) above, Letters of Credit the aggregate Stated Amount of which do not exceed $10,000,000), in each case outstanding on the last day of such Test Period, exceeds 35% of the amount of the aggregate Revolving Commitments in effect on such date.

Test Period Ending	Ratio
on or prior to April 2, 2022	6.00:1.00
after April 2, 2022 through and including April 1, 2023	5.75:1.00
after April 1, 2023 through and including March 30, 2024	5.50:1.00
after March 30, 2024 through and including March 29, 2025	5.25:1.00
after March 29, 2025	5.00:1.00

To the extent compliance with this **Section 6.11** is being calculated as of a date that is prior to the first test date under this **Section 6.11** in order to determine the permissibility of an action by the Borrower or any of its Restricted Subsidiaries, such compliance shall be tested for such purpose as if such first test date had occurred.

ARTICLE VII

Events of Default

SECTION 7.01. **Events of Default**. If any of the following events (any such event, an "**Event of Default**") shall occur:

(a) any Loan Party shall fail to pay any principal of any Loan or any reimbursement obligation in respect of any LC Disbursement when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;

(b) any Loan Party shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in **paragraph (a)** of this Section) payable under any Loan Document, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of five Business Days;

(c) any representation or warranty made or deemed made by or on behalf of the Borrower or any of the Loan Parties in or in connection with any Loan Document or any amendment or modification thereof or waiver thereunder, or in any certificate furnished pursuant to or in connection with any Loan Document or any amendment or modification thereof or waiver thereunder, shall prove to have been incorrect in any material respect when made or deemed made;

(d) the Borrower or any of its Restricted Subsidiaries shall fail to observe or perform any covenant, condition or agreement contained in **Section 5.02(a)** (with respect to the Borrower), **5.05(a)(i)**, **5.08** or **Article VI**; **provided** that with respect to the covenant contained in **Section 6.11**, (i) an Event of Default pursuant to failure to perform the covenant contained in **Section 6.11** (a "**Financial Covenant Event of Default**") shall not occur until the expiration of the 15th Business Day subsequent to the date the certificate calculating compliance with **Section 6.11** as of the last day of any fiscal quarter is required to be delivered pursuant to **Section 5.01(d)(ii)** (without giving pro forma effect to any grace period for such delivery) with respect to such fiscal quarter or fiscal year, as applicable and (ii) any default under **Section 6.11** shall not constitute an Event of Default with respect to any Loans or Commitments hereunder, other than the Revolving Loans and the Revolving Commitments, until the date on which the Revolving Loans (if any) have been accelerated, and the Revolving Commitments have been terminated, in each case, by the Required Revolving Lenders;

(e) the Borrower or any of its Restricted Subsidiaries shall fail to observe or perform any covenant, condition or agreement contained in any Loan Document (other than those specified in **paragraph (a)**, **(b)** or **(d)** of this Section), and such failure shall continue unremedied for a period of 30 days after receipt by the Borrower of written notice thereof from the Administrative Agent at the direction of the Required Lenders to the Borrower;

(f) the Borrower or any of its Restricted Subsidiaries shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable (after giving effect to any applicable grace period set forth in the instrument or agreement under which such Indebtedness was created);

(g) any event or condition occurs that results in any Material Indebtedness becoming due prior to its scheduled maturity or that enables or permits (with all applicable grace periods set forth in the instrument or agreement under which such Indebtedness was created having expired) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof,

in each case prior to its scheduled maturity, **provided** that this **paragraph (g)** shall not apply to (i) secured Indebtedness that becomes due as a result of the sale, transfer or other Disposition (including as a result of a casualty or condemnation event) of the property or assets securing such Indebtedness (to the extent such sale, transfer or other disposition is not prohibited under this Agreement), (ii) termination or similar events (other than defaults or events of default) under the documents governing Swap Agreements, (iii) any Indebtedness that becomes due as a result of a Refinancing thereof permitted under **Section 6.01** or (iv) any Indebtedness required to be (or for which an offer is required to) prepaid, repurchased, redeemed or defeased in connection with any asset sale event, casualty or condemnation event, change of control, result of excess cash flow or similar event;

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed in a court of competent jurisdiction seeking (i) relief in respect of the Borrower or any Significant Subsidiary, or of a substantial part of the property or assets of the Borrower or any Significant Subsidiary, under any Debtor Relief Law, (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any Significant Subsidiary or for a substantial part of the property or assets of the Borrower or any Significant Subsidiary or (iii) the winding-up or liquidation of the Borrower or any Significant Subsidiary (except, in the case of any Significant Subsidiary, in a transaction permitted by **Section 6.05**); and such appointment, proceeding or petition shall continue undismissed or unstayed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) the Borrower or any Significant Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking relief under any Debtor Relief Law, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or the filing of any petition described in **paragraph (h)** above, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any Significant Subsidiary or for a substantial part of the property or assets of the Borrower or any Significant Subsidiary, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding or (v) make a general assignment for the benefit of creditors;

(j) the failure by the Borrower or any Restricted Subsidiary to pay one or more final judgments entered against the Borrower or any Restricted Subsidiary for the payment of money aggregating in excess of $100,000,000 (to the extent not covered by insurance, or if covered by insurance, to the extent to which the insurer has denied coverage in writing), which judgments are not discharged or effectively satisfied, vacated, discharged, waived, stayed or bonded pending appeal for a period of 60 consecutive days from the entry thereof, or any action shall be legally taken by a judgment creditor to levy upon assets or properties of the Borrower or any Restricted Subsidiary to enforce any such judgment;

(k) (i) an ERISA Event occurs that has resulted or could reasonably be expected to result in liability of any Loan Party in an aggregate amount that could reasonably be expected to result in a Material Adverse Effect, or (ii) any Loan Party or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount that could reasonably be expected to result in a Material Adverse Effect;

(l) any Lien purported to be created under any Security Document shall cease to be, or shall be asserted in writing by any Loan Party not to be, a valid and perfected Lien on any portion of the Collateral with a value in excess of **$25,000,000**, with the priority required by the applicable Security Document, except (i) as a result of a transaction permitted under or consented to under the Loan Documents, (ii) as a result of the Administrative Agent's failure to maintain possession of any stock certificates, promissory notes or other instruments delivered to it under the Security Documents, to the

extent the Loan Parties are otherwise in compliance with their collateral and related notification requirements under the Loan Documents, to file and maintain proper Uniform Commercial Code or similar statements (including continuation statements) or (iii) as to Collateral consisting of Real Property to the extent that such losses are covered by a lender's title insurance policy and such insurer has not denied coverage;

(m) any material provision of any Loan Document or any Guarantee of the Loan Document Obligations shall for any reason cease to be, or be asserted in writing by any Loan Party not to be, a legal, valid and binding obligation of any Loan Party thereto other than as expressly permitted hereunder or thereunder; or

(n) a Change in Control shall occur;

then, and in any such event, (A) if such event is an Event of Default with respect to the Borrower described in paragraph **(h)** or **(i)** of this Section, automatically the Commitments shall immediately terminate and the Loans hereunder (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents shall immediately become due and payable, (B) if such event is a Financial Covenant Event of Default, any or all of the following actions may be taken upon the direction of the Required Revolving Lenders: (i) the Administrative Agent shall, by notice to the Borrower, declare the Revolving Commitments to be terminated forthwith, whereupon the Revolving Commitments shall immediately terminate, or (ii) the Administrative Agent shall, by notice to the Borrower, declare the Revolving Loans (with accrued interest thereon) and all other amounts owing under this Agreement in respect of the Revolving Commitments or Revolving Loans or to the Revolving Lenders in their capacities as such to be due and payable forthwith, whereupon the same shall immediately become due and payable, and (C) if such event is any other Event of Default or if the Required Revolving Lenders have delivered any direction pursuant to the preceding clause (B) at any time when a Financial Covenant Event of Default has occurred and is continuing, either or both of the following actions may be taken: (i) with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, by notice to the Borrower declare the Commitments to be terminated forthwith, whereupon the Commitments shall immediately terminate; and (ii) with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, by notice to the Borrower, declare the Loans hereunder (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents to be due and payable forthwith, whereupon the same shall immediately become due and payable.

SECTION 7.02. **Right to Cure**.

(a) Notwithstanding anything to the contrary contained in **Section 7.01**, in the event that the Borrower and the Restricted Subsidiaries reasonably expect to fail (or have failed) to comply with the Financial Covenant as of the last day of any Test Period, at any time after the beginning of the last fiscal quarter of such Test Period until the expiration of the 15th Business Day subsequent to the date on which the financial statements with respect to such fiscal quarter (or the Fiscal Year ended on the last day of such fiscal quarter) are required to be delivered pursuant to **Section 5.01(a)** or **(b)**, as applicable (the "**Cure Deadline**"), the Borrower (or any Parent Entity thereof) shall have the right to issue Permitted Cure Securities for cash or otherwise receive cash contributions to (or in the case of any Parent Entity of the Borrower receive Equity Interests in the Borrower for its capital contributions to) the capital of the Borrower as cash common equity (collectively, the "**Cure Right**"), and upon the receipt by the Borrower of the Net Cash Proceeds of such issuance or contribution (the "**Cure Amount**") pursuant to the exercise by the Borrower of such Cure Right, the Financial Covenant shall be recalculated giving effect to the following pro forma adjustment:

(i) Consolidated EBITDA shall be increased with respect to such applicable fiscal quarter and any four fiscal quarter Test Period that contains such fiscal quarter, solely for the purpose of measuring the Consolidated First Lien Leverage Ratio for purposes of the Financial Covenant and, subject to **clause (c)** below, not for any other purpose under this Agreement, by an amount equal to the Cure Amount (but not in excess of the Necessary Cure Amount);

(ii) if, after giving effect to the foregoing pro forma adjustment (without giving effect to any repayment of any Indebtedness with any portion of the Cure Amount or any portion of the Cure Amount on the balance sheet of the Borrower and its Restricted Subsidiaries), the Borrower and its Restricted Subsidiaries shall then be in compliance with the requirements of the Financial Covenant, the Borrower and its Restricted Subsidiaries shall be deemed to have satisfied the requirements of the Financial Covenant as of the relevant date of determination with the same effect as though there had been no failure to comply therewith at such date, and the applicable breach or default of the Financial Covenant that had occurred shall be deemed cured for the purposes of this Agreement; and

(iii) Consolidated Debt with respect to any Test Period subsequent to the Test Period for which the Cure Amount is deemed applied that includes such fiscal quarter with respect to which such Cure Amount is received by the Borrower shall be decreased solely to the extent proceeds of the Cure Amount are applied to prepay any Indebtedness (**provided** that any such Indebtedness so prepaid shall be a permanent repayment of such Indebtedness and termination of commitments thereunder) included in the calculation of Consolidated Debt.

(b) Notwithstanding anything herein to the contrary,

(i) in each four consecutive fiscal quarter period of the Borrower there shall be at least two fiscal quarters in which the Cure Right is not exercised,

(ii) during the term of this Agreement, the Cure Right shall not be exercised more than five times,

(iii) for purposes of this **Section 7.02**, the Cure Amount shall be no greater than the amount required for purposes of complying with the Financial Covenant as of the end of such fiscal quarter (such amount, the "**Necessary Cure Amount**"); **provided** that if the Cure Right is exercised prior to the date financial statements are required to be delivered for such fiscal quarter, then the Cure Amount shall be equal to the amount reasonably determined by the Borrower in good faith that is required for purposes of complying with the Financial Covenant for such fiscal quarter (such amount, the "**Expected Cure Amount**"),

(iv) there shall be no pro forma or other reduction in Indebtedness (by netting or otherwise) with the proceeds of any Cure Amount for determining compliance with the Financial Covenant for the fiscal quarter in which such Cure Amount increased the Consolidated EBITDA pursuant to **clause (a)(i)** above, and

(v) upon receipt by the Administrative Agent of written notice, prior to the expiration of the 15th Business Day subsequent to the due date for delivery of the relevant financial statements pursuant to **Section 5.01(a)** or **(b)** (the "**Anticipated Cure Deadline**") that the Borrower is considering the exercise of the Cure Right, the Lenders shall not be permitted to exercise any remedies under **Section 7.01** or otherwise under the Loan Documents, including accelerating Loans held by them or to exercise remedies against the Collateral on the basis of a

failure to comply with the requirements of the Financial Covenant until such failure is not cured pursuant to the exercise of the Cure Right on or prior to the Anticipated Cure Deadline (it being understood and agreed that no Revolving Lender or Issuing Bank shall be required to make any Credit Extension until the failure to comply with the requirements of the Financial Covenant shall have been cured pursuant to the exercise of the Cure Right on or prior to the Anticipated Cure Deadline (or waived in accordance with **Section 9.02**)).

Notwithstanding any other provision in this Agreement to the contrary, but subject to **clause (c)** below, the Cure Amount received pursuant to any exercise of the Cure Right shall be disregarded for purposes of determining any financial ratio based condition, pricing or any basket under **Article VI** of this Agreement.

(c) Notwithstanding anything herein to the contrary, to the extent that the Expected Cure Amount is (i) greater than the Necessary Cure Amount, then such difference may be used for the purposes of determining any baskets (other than any previously contributed Cure Amounts), with respect to the covenants contained in the Loan Documents, the Available Amount or the Available Equity Amount and any pricing provisions and (ii) less than the Necessary Cure Amount, then not later than the applicable Cure Deadline, the Borrower must receive the cash proceeds of Permitted Cure Securities or a cash capital contribution to the Borrower, which cash common equity proceeds received by Borrower shall be equal to the shortfall between such Expected Cure Amount and such Necessary Cure Amount.

ARTICLE VIII

Administrative Agent

SECTION 8.01. **Appointment and Authority**.

(a) Each of the Lenders and the Issuing Banks hereby irrevocably appoints Bank of America, N.A. to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Joint Bookrunners, the Lenders and the Issuing Banks, and the Borrower shall not have rights as a third party beneficiary of any of such provisions (except as expressly set forth in this Article).

(b) The Administrative Agent shall also act as the "collateral agent" under the Loan Documents, and each of the Lenders and the Issuing Bank hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of such Lender and the Issuing Banks for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Secured Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Administrative Agent, as "collateral agent" and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to **Section 8.05** for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Security Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent, shall be entitled to the benefits of all provisions of this **Article VIII** and **Article IX** (including **Section 9.03** as though such co-agents, sub-agents and attorneys-in-fact were the "collateral agent" under the Loan Documents) as if set forth in full herein with respect thereto.

SECTION 8.02. **Rights as a Lender**. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender or an Issuing Bank as any other Lender or Issuing Bank and may exercise the same as though it were not the Administrative Agent and the term "Lender", "Lenders", "Issuing Bank" or "Issuing Banks" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders or the Issuing Banks.

SECTION 8.03. **Exculpatory Provisions**. The Administrative Agent and each Joint Bookrunner, as applicable, shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, each of the Administrative Agent and the Joint Bookrunners, as applicable:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing (and it is understood and agreed that the use of the term "agent" herein or in any other Loan Document (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law, and that such term is used as a matter of market custom and is intended to create or reflect only an administrative relationship between contracting parties);

(b) shall not have any duty to take any discretionary action or to exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents); **provided** that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or Requirements of Law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law;

(c) shall not have any duty or responsibility to disclose, and shall not be liable for the failure to disclose, to any Lender or any Issuing Bank, any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their Affiliates, that is communicated to, obtained or in the possession of, the Administrative Agent, any Joint Bookrunner or any of their Related Parties in any capacity, except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent herein;

(d) shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in **Section 9.02** and in the last paragraph of **Section 7.01**) or (ii) in the absence of its own gross negligence or willful misconduct (such absence to be presumed unless otherwise determined by a court of competent jurisdiction by a final and nonappealable judgment); **provided** that the Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent by the Borrower, a Lender or an Issuing Bank;

(e) shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document (but shall be entitled to rely thereon), (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith (but shall be entitled to rely thereon), (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the sufficiency, validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Security Documents, (v) the value or the sufficiency of any Collateral or any representation or warranty regarding the existence, value or collectability of any Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith (but shall be entitled to rely thereon), (vi) the satisfaction of any condition set forth in **Article IV** or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to such Agent or (vii) satisfaction of any condition that expressly refers to the matters described therein being acceptable or satisfactory to such Agent;

(f) shall not be required to carry out any "know your customer" or other checks in relation to any Person on behalf of any Lender or Issuing Bank and each Lender and Issuing Bank confirms to the Administrative Agent that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Administrative Agent or any of its Related Parties; and

(g) shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Disqualified Lenders or Affiliated Lenders, and, without limiting the generality of the foregoing, the Administrative Agent shall not (i) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a Disqualified Lender or an Affiliated Lender or (ii) have any liability with respect to or arising out of any assignment or participation of Commitments or Loans, or disclosure of confidential information, to any Disqualified Lender or Affiliated Lender.

SECTION 8.04. **Reliance by Administrative Agent**. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the signatory, sender or authenticator thereof). The Administrative Agent shall be entitled to rely, and shall not incur any liability for relying, upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the signatory, sender or authenticator thereof), and may act upon any such statement prior to receipt of written confirmation thereof. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or an Issuing Bank, the Administrative Agent may presume that such condition is satisfactory to such Lender or such Issuing Bank unless the Administrative Agent shall have received notice to the contrary from such Lender or such Issuing Bank prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

SECTION 8.05. **Delegation of Duties**. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence, willful misconduct or bad faith in the selection of such sub-agents.

SECTION 8.06. **Resignation of Administrative Agent**. The Administrative Agent may resign at any time upon 30 days' notice to the Lenders, the Issuing Banks and the Borrower, subject to the appointment of a successor. If the Administrative Agent (or an Affiliate thereof) becomes a Defaulting Lender or otherwise is not performing its role hereunder as Administrative Agent, the Administrative Agent may be removed as the Administrative Agent hereunder at the request of the Borrower or the Required Lenders upon 10 days' notice to the Administrative Agent, subject to the appointment of a successor. Upon receipt of any such notice of resignation or upon such removal, the Required Lenders shall have the right, with the Borrower's consent (such consent not to be unreasonably withheld or delayed if such successor is a commercial bank with a combined capital and surplus of at least $1.0 billion) (**provided** that no consent of the Borrower shall be required if an Event of Default under **Section 7.01(a)**, **(b)**, **(h)** or **(i)** has occurred and is continuing), to appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may on behalf of the Lenders and the Issuing Banks (and with the consent of the Borrower, unless an Event of Default under **Section 7.01(a)**, **(b)**, **(h)** or **(i)** has occurred and is continuing), appoint a successor Administrative Agent, which shall be an Approved Bank with an office in the United States, or any Affiliate of any such Approved Bank; **provided** that if the Administrative Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (a) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (**provided** that in the case of a retiring Administrative Agent in respect to any collateral security held by it on behalf of the Lenders or the Issuing Banks under any of the Loan Documents, the retiring Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed (it being understood and agreed that the retiring Administrative Agent shall have no duty or obligation to take any further action under any Security Document, including any action required to maintain the perfection of any such security interest)) and (b) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and each Issuing Bank directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this Section. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired or replaced) Administrative Agent, and the retiring or replaced Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring or replaced Administrative Agent's resignation or replacement hereunder and under the other Loan Documents, the provisions of this Article and **Section 9.03**, as well as any exculpatory, reimbursement and indemnification provisions set forth in any other Loan Document, shall continue in effect for the

benefit of such retiring or replaced Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring or replaced Administrative Agent was acting as Administrative Agent and in respect of the matters referred to in the proviso under clause **(a)** above.

SECTION 8.07. **Non-Reliance on Administrative Agent and Other Lenders**.

(a) Each Lender and each Issuing Bank acknowledges that it has, independently and without reliance upon the Administrative Agent, any Joint Bookrunner or any other Lender or Issuing Bank, or any of the Related Parties of any of the foregoing, and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and each Issuing Bank also acknowledges that it will, independently and without reliance upon the Administrative Agent, any Joint Bookrunner or any other Lender or Issuing Bank, or any of the Related Parties of any of the foregoing, based on such documents and information as it shall from time to time deem appropriate, which may include, in each case:

(i) the financial condition, status and capitalization of the Borrower and each other Loan Party;

(ii) the legality, validity, effectiveness, adequacy or enforceability of this Agreement and each other Loan Document and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Loan Document;

(iii) determining compliance or non-compliance with any condition hereunder to the making of a Loan, or the issuance of a Letter of Credit and the form and substance of all evidence delivered in connection with establishing the satisfaction of each such condition; and

(iv) the adequacy, accuracy and/or completeness of any information delivered by the Administrative Agent, any Joint Bookrunner, any other Lender or Issuing Bank, or by any of the Related Parties of any of the foregoing, under or in connection with this Agreement or any other Loan Document, the transactions contemplated hereby and thereby or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Loan Document,

continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

(b) Each Lender, by delivering its signature page to this Agreement and funding its Loans on the Effective Date, or delivering its signature page to an Assignment and Assumption or any other Loan Document pursuant to which it shall become a Lender hereunder, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be delivered to, or be approved by or satisfactory to, any Agent or the Lenders on the Effective Date. Each Secured Party, whether or not a party hereto, will be deemed by its acceptance of the benefits of the Collateral and of the Guarantees of the Secured Obligations provided under the Loan Documents to have agreed to the provisions of this Article.

SECTION 8.08. **No Other Duties, Etc**. Anything herein to the contrary notwithstanding, neither any Joint Bookrunner nor any person named on the cover page hereof as a Joint Bookrunner, a Co-Syndication Agent or a Co-Documentation Agent shall have any powers, duties, responsibilities or liabilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or an Issuing Bank hereunder but all such parties shall be entitled to the benefits of this **Article VIII**.

SECTION 8.09. **Administrative Agent May File Proofs of Claim; Credit Bidding**. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or outstanding Letter of Credit or LC Disbursement shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated), by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, Letters of Credit or LC Disbursements outstanding and all other Secured Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Banks and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Issuing Banks and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the Issuing Banks and the Administrative Agent under **Sections 2.12** and **9.03**) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender, each Issuing Bank and each other Secured Party to make such payments to the Administrative Agent and, if the Administrative Agent shall consent to the making of such payments directly to the Lenders, the Issuing Banks, or the other Secured Parties, to pay to the Administrative Agent any amount due to it, in its capacity as Administrative Agent, for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due to the Administrative Agent under **Sections 2.12** and **9.03**.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender, any Issuing Bank or any other Secured Party, any plan of reorganization, arrangement, adjustment or composition affecting the Secured Obligations or the rights of any Lender, any Issuing Banks or any other Secured Party to authorize the Administrative Agent to vote in respect of the claim of any Lender or any Issuing Bank or in any such proceeding.

The Secured Parties hereby irrevocably authorize the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Secured Obligations (including accepting some or all of the Collateral in satisfaction of some or all of the Secured Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code of the United States, including under Sections 363, 1123 or 1129 of the Bankruptcy Code of the United States, or any similar Requirements of Law in any other jurisdictions to which a Loan Party is subject, (b) at any other sale or foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable Requirement of Law. In connection with any such credit bid and purchase, the Secured Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid on a ratable basis (with Secured Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that would vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) in the asset or assets so purchased (or in the Equity Interests or debt instruments of the acquisition vehicle or vehicles that are used to consummate

such purchase). In connection with any such bid (i) the Administrative Agent shall be authorized to form one or more acquisition vehicles to make a bid, (ii) to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or Equity Interests thereof shall be governed, directly or indirectly, by the vote of the Required Lenders, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in clauses (i) through (xi) of **Section 9.02**), (iii) the Administrative Agent shall be authorized to assign the relevant Secured Obligations to any such acquisition vehicle pro rata by the Lenders, as a result of which each of the Lenders shall be deemed to have received a pro rata portion of any Equity Interests and/or debt instruments issued by such an acquisition vehicle on account of the assignment of the Secured Obligations to be credit bid, all without the need for any Secured Party or acquisition vehicle to take any further action, and (iv) to the extent that Secured Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Secured Obligations assigned to the acquisition vehicle exceeds the amount of debt credit bid by the acquisition vehicle or otherwise), such Secured Obligations shall automatically be reassigned to the Lenders pro rata and the Equity Interests and/or debt instruments issued by any acquisition vehicle on account of the Secured Obligations that had been assigned to the acquisition vehicle shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action.

SECTION 8.10. **No Waiver; Cumulative Remedies; Enforcement**. No failure by any Lender, any Issuing Bank or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document 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, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with **Article VII** for the benefit of all the Lenders, the Issuing Banks and the other Secured Parties; **provided**, **however**, that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) the Issuing Banks from exercising the rights and remedies that inure to its benefit (solely in its capacity as Issuing Bank) hereunder and under the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with **Section 9.08** (subject to the terms of **Section 2.18**), or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under any Debtor Relief Law; and **provided**, **further**, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to **Article VII** and (ii) in addition to the matters set forth in **clauses (b)**, **(c)** and **(d)** of the preceding proviso and subject to **Section 2.18**, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

To the extent required by any Requirements of Law, the Administrative Agent may deduct or withhold from any payment to any Lender an amount equivalent to any applicable withholding Tax. If the IRS or any other authority of the United States or other jurisdiction asserts a claim that the Administrative Agent did not properly withhold Tax from amounts paid to or for the account of any Lender for any reason (including, without limitation, because the appropriate form was not delivered or not property executed, or because such Lender failed to notify the Administrative Agent of a change in circumstance that rendered the exemption from, or reduction of withholding Tax ineffective), such Lender shall indemnify and hold harmless the Administrative Agent (to the extent that the Administrative Agent has not already been reimbursed by any Loan Party pursuant to **Section 2.17** and without limiting any obligation of the Loan Parties to do so pursuant to such **Section 2.17**) fully for all amounts paid, directly or indirectly, by the Administrative Agent as Taxes or otherwise, together with all expenses incurred, including legal expenses and any other out-of-pocket expenses, whether or not such Tax was correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Loan Document against any amount due to the Administrative Agent under this **Article VIII**. The agreements in this **Article VIII** shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender, the termination of this Agreement and the repayment, satisfaction or discharge of all other obligations. For the avoidance of doubt, the term "Lender" in this **Article VIII** shall include any Issuing Bank.

SECTION 8.11. **Authorization to Release Liens and Guarantees**. The Administrative Agent is hereby irrevocably authorized by each Secured Party to effect any release or subordination of Liens or the Guarantees contemplated by **Section 9.15** without further action or consent by any Secured Party.

SECTION 8.12. **Intercreditor Agreements**. Without the consent of any Lender, the Administrative Agent (including in its capacity as "collateral agent" under the Loan Documents) is hereby authorized to enter into any Customary Intercreditor Agreement to the extent contemplated by the terms hereof, and the parties hereto acknowledge that such Customary Intercreditor Agreement is binding upon them. Each Lender (a) hereby agrees that it will be bound by and will take no actions contrary to the provisions of the Customary Intercreditor Agreement and (b) hereby authorizes and instructs the Administrative Agent (including in its capacity as "collateral agent" under the Loan Documents) to enter into the Customary Intercreditor Agreement and to subject the Liens on the Collateral securing the Secured Obligations to the provisions thereof. In addition, each Lender hereby authorizes the Administrative Agent (including in its capacity as "collateral agent" under the Loan Documents) to enter into (i) any amendments to any Customary Intercreditor Agreement, and (ii) any other intercreditor arrangements, in the case of **clauses (i)**, and **(ii)** to the extent required to give effect to the establishment of intercreditor rights and privileges as contemplated by **Sections 6.02** and **9.18** of this Agreement.

SECTION 8.13. **Secured Cash Management Obligations and Secured Swap Obligation**. Except as otherwise expressly set forth herein or in the Loan Guaranty, the Security Agreement, any other Security Document or any other Loan Document, no Person holding Secured Cash Management Obligations or Secured Swap Obligations that obtains the benefits of any Guarantee or any Collateral by virtue of the provisions hereof or of any Loan Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) other than in its capacity as a Lender or Administrative Agent and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this **Article VIII** to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Secured Cash Management Obligations and Secured Swap Obligations unless the Administrative Agent has received written notice of such Secured Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Person holding such Secured Obligations.

SECTION 8.14. **Certain ERISA Matters**.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and the Joint Bookrunners and their respective Affiliates, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments or this Agreement,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement,

(iii)(A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or such Lender has not provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and the Joint Bookrunners and their respective Affiliates, that the Administrative Agent is not a fiduciary with respect to the assets of such Lender in such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

SECTION 8.15. **Recovery of Erroneous Payments**. Without limitation of any other provision in this Agreement, if at any time the Administrative Agent makes a payment hereunder in error to any Lender or any Issuing Bank (the "**Payment Party**"), whether or not in respect of a Loan Document Obligation due and owing by the Borrower at such time, where such payment is a Rescindable Amount, then in any such event, each Payment Party receiving a Rescindable Amount severally agrees with the Administrative Agent to repay to the Administrative Agent forthwith on demand the Rescindable Amount received by such Payment Party in immediately available funds in the currency so received, with interest thereon, for each day from and including the date such Rescindable Amount is received by it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. Each Payment Party irrevocably waives any and all defenses, including any "discharge for value" (under which a creditor might otherwise claim a right to retain funds mistakenly paid by a third party in respect of a debt owed by another) or similar defense to its obligation to return any Rescindable Amount. The Administrative Agent shall inform each Payment Party promptly upon determining that any payment made to such Payment Party comprised, in whole or in part, a Rescindable Amount. This **Section 8.15** shall solely be an agreement between the Administrative Agent, the Lenders and the Issuing Banks.

ARTICLE IX

Miscellaneous

SECTION 9.01. **Notices**.

(a) Except in the case of notices and other communications expressly permitted to be given by telephone, all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by fax or other electronic transmission, as follows:

(i) if to the Borrower, the Administrative Agent, or an Issuing Bank, to the address, fax number, e-mail address or telephone number specified for such Person on **Schedule 9.01**; and

(ii) if to any other Lender, to it at its address (or fax number, telephone number or e-mail address) set forth in its Administrative Questionnaire (including, as appropriate, notices delivered solely to the Person designated by a Lender on its Administrative Questionnaire then in effect for the delivery of notices that may contain MNPI).

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in **subsection (b)** below shall be effective as provided in such **subsection (b)**.

(b) **Electronic Communications**. Notices and other communications to the Lenders and the Issuing Banks hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures reasonably approved by the Administrative Agent; **provided** that the foregoing shall not apply to notices to any Lender or any Issuing Bank pursuant to **Article II** if such Lender or the Issuing Bank, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); **provided** that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing **clause (i)** of notification that such notice or communication is available and identifying the website address therefor.

(c) **The Platform**. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent, the Joint Bookrunners or any of their respective Related Parties (collectively, the "**Agent Parties**") have any liability to the Borrower, any Lender, any Issuing Bank, any of their respective Affiliates or any of their respective security holders or creditors for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower's or the Administrative Agent's transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and non-appealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of such Agent Party in using the Platform.

(d) **Change of Address, Etc**. Each of the Borrower, the Administrative Agent and each Issuing Bank may change its address, electronic mail address, fax or telephone number for notices and other communications or website hereunder by notice to the other parties hereto. Each other Lender may change its address, fax or telephone number for notices and other communications hereunder by notice to the Borrower, the Administrative Agent and the Issuing Banks. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, fax number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender.

(e) **Reliance by Administrative Agent, Issuing Bank and Lenders**. The Administrative Agent, the Issuing Banks and the Lenders shall be entitled to rely and act upon any notices purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent and each of the parties hereto hereby consents to such recording.

SECTION 9.02. Waivers; Amendments.

(a) No failure or delay by the Administrative Agent, any Issuing Bank or any Lender in exercising any right or power under this Agreement or any Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Banks and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or any Loan Document or consent to any departure by any Loan Party therefrom shall in any event be effective unless the same shall be permitted by **paragraph (b)** of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or the issuance, amendment, renewal or extension of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, any Lender or any Issuing Bank may have had notice or knowledge of such Default at the time. No notice or demand on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in similar or other circumstances.

(b) Except as otherwise provided in this Agreement (including **clause (b)** of the definition of "Permitted Additional Debt", **Section 2.14(b)**, **Section 2.20** with respect to any Incremental Amendment, **Section 2.21** with respect to any Extension, **Section 5.10**, **Section 6.11** or **Section 9.18**), and except with respect to any amendment, modification or waiver contemplated in this Section below, which shall only require the consent of the Lenders expressly set forth therein and not the Required Lenders or any other majority or required percentage of Lenders of any Class of Loans or Commitments, neither this Agreement, any Loan Document nor any provision hereof or thereof may be waived, amended or modified except, in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Borrower and the Required Lenders or, in the case of any other Loan Document, pursuant to an agreement or agreements in writing entered into by the Administrative Agent and the Loan Party or Loan Parties that are parties thereto, in each case with the consent of the Required Lenders; **provided** that no such agreement shall, without the written consent of each Lender directly and adversely affected thereby (and only such Lenders) and identified as follows:

(i) increase the Commitment of any Lender without the written consent of such Lender (it being understood that a waiver of any condition precedent set forth in **Article IV** or the waiver of any Default, mandatory prepayment or mandatory reduction of the Commitments shall not constitute an extension or increase of any Commitment of any Lender);

(ii) reduce the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon, or reduce any fees or prepayment premiums payable hereunder, without the written consent of each Lender and Issuing Bank directly and adversely affected thereby (it being understood that (x) any change to the definition of "Consolidated First Lien Leverage Ratio" or in the component definitions thereof shall not constitute a reduction of interest or fees, (y) any waiver of any condition precedent set forth in **Article IV** or the waiver of any Default, or mandatory prepayment shall not constitute a reduction in principal, LC Disbursement or interest, fees or prepayment premium); **provided** that only the consent of the Required Lenders shall be necessary to waive any obligation of the Borrower to pay interest at the "default rate" or amend **Section 2.13(c)**;

(iii) postpone the maturity of any Loan, or the date of any scheduled amortization payment of the principal amount of any Term Loan under **Section 2.10** or the applicable Incremental Amendment, or the reimbursement date with respect to any LC Disbursement, or any date for the payment of any interest, fees or prepayment premium payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment (pursuant to **Section 2.21** or otherwise), without the written consent of each Lender directly and adversely affected thereby (it being understood the waiving of the applicability of post-default increases in interest rates and any waiver of any Default, mandatory prepayment or condition precedent set forth in **Article IV** shall not constitute a postponement of any date for payment of any principal, LC Disbursement or interest, fees or prepayment premium payable hereunder);

(iv) change any of the provisions of this Section without the written consent of each Lender;

(v) change the percentage set forth in the definition of "Required Revolving Lenders" without the written consent of each Revolving Lender;

(vi) change the percentage set forth in the definition of "Required Lenders" or any other provision of any Loan Document specifying the number or percentage of Lenders required to waive, amend or modify any rights thereunder or make any determination or grant any consent thereunder (other than the percentages set forth in the definition of "Required Revolving Lenders"), without the written consent of each Lender;

(vii) release all or substantially all the value of the Guarantees under the Loan Guaranty (except as expressly provided in this Agreement or the Loan Guaranty) without the written consent of each Lender;

(viii) release all or substantially all the Collateral from the Liens of the Security Documents (except as expressly provided in this Agreement or the Security Documents), without the written consent of each Lender;

(ix) provide for Revolving Loans or Letters of Credit to be denominated in any currency other than Dollars without the written consent of each Lender directly affected thereby;

(x) change any provision of any Loan Document in a manner that by its terms directly and adversely affects the rights in respect of Collateral of or the rights in respect of payments due to Lenders holding Commitments or Loans of any Class differently than those holding Commitments or Loans of any other Class, without the written consent of Lenders representing a Majority in Interest of each directly and adversely affected Class; or

(xi) change **Section 2.18(b)** or **2.18(c)** in a manner that would alter the pro rata sharing of payments required thereby without the written consent of each Lender directly and adversely affected thereby;

provided further that (A) no such agreement shall (x) amend, modify or otherwise affect the rights or duties of the Administrative Agent or any Issuing Bank without the prior written consent of the Administrative Agent or such Issuing Bank, as the case may be or (y) amend or modify the provisions of **Section 2.05** or any letter of credit application and any bilateral agreement between the Borrower and any Issuing Bank regarding such Issuing Bank's LC Commitment or the respective rights and obligations between the Borrower and such Issuing Bank in connection with the issuance of Letters of Credit without the prior written consent of the Administrative Agent and such Issuing Bank, respectively, (B) any provision of this Agreement or any other Loan Document may be amended by an agreement in writing

entered into by the Borrower and the Administrative Agent to cure any ambiguity, omission, error, mistake, defect or inconsistency so long as, in each case, the Lenders shall have received at least five Business Days' prior written notice thereof and the Administrative Agent shall not have received, within five Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment, **provided** that the consent of the Lenders or the Required Lenders, as the case may be, shall not be required to make any such changes necessary to be made (x) in connection with any borrowing of Incremental Term Loans to effect the provisions of **Section 2.20**, the provision of any Incremental Revolving Commitment Increase, any Incremental Revolving Commitments or otherwise to effect the provisions of **Section 2.20**, **2.21** or **6.02(a)** and (y) in connection with an amendment that addresses solely a repricing transaction in which any Class of Term Loans is refinanced with a replacement Class of term loans bearing (or is modified in such a manner such that the resulting term loans bear) a lower Effective Yield for which only the consent of the Lenders holding Term Loans subject to such permitted repricing transaction that will continue as Lenders in respect of the repriced tranche of Term Loans or modified Term Loans is required and (C) only the consent of the Required Revolving Lenders shall be required to (and only the Required Revolving Lenders shall have the ability to), amend, modify or supplement, solely for purposes of the Financial Covenant amend any definition (or any component thereof) that is used in the Financial Covenant, amend, modify, supplement or waive the terms of the Financial Covenant, or amend, modify, supplement, waive or terminate the Financial Covenant with respect to the occurrence of an Event of Default arising in respect of the Financial Covenant, and (D) the Borrower and the Administrative Agent may, without the input or consent of the other Lenders, (i) effect changes to the form of Mortgage as may be necessary or appropriate in the opinion of the Administrative Agent and (ii) effect changes to this Agreement that are necessary and appropriate to provide for the mechanics contemplated by the offering process set forth in **Section 9.04(g)** herein.

Notwithstanding anything to the contrary contained in this **Section 9.02**, only the consent of the Required Revolving Lenders shall be required to (and only the Required Revolving Lenders shall have the ability to) waive, amend or modify any condition precedent set forth in **Section 4.02** hereof as it pertains to the Borrowing of any Revolving Loan; **provided** that with respect to any waiver or consent or amendment in respect of any Default or Event of Default described in **clause (b)** thereof and any amendment of any representation or warranty in any Loan Document that is required to be brought down pursuant to **clause (a)** thereof, the waiver or consent or approval thereof shall be subject to the approval of the Required Lenders rather than the Required Revolving Lenders.

(c) In connection with any proposed amendment, modification, waiver or termination (a "**Proposed Change**") requiring the consent of all Lenders or all affected Lenders or the Lenders of the affected Class, if the consent of the Required Lenders (or, in circumstances where this Section does not require the consent of the Required Lenders, a Majority in Interest of the Lenders of the affected Class) to such Proposed Change is obtained, but the consent to such Proposed Change of other Lenders whose consent is required is not obtained (any such Lender whose consent is not obtained as described in **paragraph (b)** of this Section being referred to as a "**Non-Consenting Lender**"), then the Borrower may, at its sole expense and effort, upon notice to such Non-Consenting Lender and the Administrative Agent, require such Non-Consenting Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in **Section 9.04**), all its interests, rights and obligations under this Agreement to an Eligible Assignee that shall assume such obligations (which Eligible Assignee may be another Lender, if a Lender accepts such assignment); **provided** that

(i) the Borrower shall have received the prior written consent of the Administrative Agent to the extent such consent would be required under **Section 9.04(b)** for an assignment of Loans or Commitments, as applicable (and, if a Revolving Commitment is being assigned, each Issuing Bank), which consent shall not unreasonably be withheld,

(ii) such Non-Consenting Lender shall have received payment of an amount equal to the outstanding par principal amount of its Loans and participations in LC Disbursements, accrued interest thereon, accrued fees and all other amounts payable to it hereunder (including pursuant to **Section 2.11(a)(i)**) from the Eligible Assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts),

(iii) unless waived, the Borrower or such Eligible Assignee shall have paid to the Administrative Agent the processing and recordation fee specified in **Section 9.04(b)**,

(iv) the Eligible Assignee shall have consented to the Proposed Change and, as a result of such assignment and any contemporaneous assignments and consents, the Proposed Change can be effected, and

(v) notwithstanding anything to the contrary in **Section 9.04**, no consent of such Non-Consenting Lender pursuant to **Section 9.04** shall be required in connection with any assignment pursuant to this **Section 9.02(c)**.

(vi) Notwithstanding anything in this Agreement of the Loan Documents to the contrary, each party hereto agrees that any assignment pursuant to the terms of this Section 9.2(c) may be effected pursuant to an Assignment and Acceptance executed by the Borrower, the Administrative Agent and the assignee and that the Lender making such assignment need not be a party thereto.

(d) Notwithstanding anything in this Agreement or the other Loan Documents to the contrary, the Revolving Commitments, Term Loans and Revolving Exposure of any Lender that is at the time a Defaulting Lender shall not have any voting or approval rights under the Loan Documents and shall be excluded in determining whether all Lenders, all affected Lenders, the Required Revolving Lenders, the Required Lenders or a Majority in Interest of the Lenders of any Class have taken or may take any action hereunder (including any consent to any amendment or waiver pursuant to this **Section 9.02**); **provided** that (x) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that affects any Defaulting Lender more adversely than other affected Lenders shall require the consent of such Defaulting Lender.

(e) Notwithstanding anything in this Agreement or the other Loan Documents to the contrary, each Affiliated Lender hereby agrees that, if a proceeding under any Debtor Relief Law shall be commenced by or against the Borrower or any other Loan Party at a time when such Lender is an Affiliated Lender, such Affiliated Lender irrevocably authorizes and empowers the Administrative Agent to vote on behalf of such Affiliated Lender with respect to the Loans held by such Affiliated Lender in any manner in the Administrative Agent's sole discretion, unless the Administrative Agent instructs such Affiliated Lender to vote, in which case such Affiliated Lender shall vote with respect to the Loans held by it as the Administrative Agent directs; **provided** that such Affiliated Lender shall be entitled to vote in accordance with its sole discretion (and not in accordance with the direction of the Administrative Agent) in connection with any plan of reorganization to the extent any such plan of reorganization proposes to treat any Secured Obligations held by such Affiliated Lender in a manner that is less favorable to such Affiliated Lender than the proposed treatment of similar Secured Obligations held by Lenders that are not Affiliates of the Borrower.

(f) To the extent notice has been provided to the Administrative Agent pursuant to the definition of Permitted Additional Debt or pursuant to Section 2.20 with respect to the inclusion of any Previously Absent Financial Maintenance Covenant, this Agreement shall be automatically and without further action on the part of any Person hereunder and notwithstanding anything to the contrary in this Section 9.02 deemed modified to include, mutatis mutandis, such Previously Absent Financial Maintenance Covenant on the date of the incurrence of the applicable Indebtedness to the extent required by the terms of such definition or Section.

SECTION 9.03. **Expenses; Indemnity; Damage Waiver**.

(a) The Borrower shall pay (i) all reasonable and documented or invoiced out-of-pocket costs and expenses incurred by the Administrative Agent, the Joint Bookrunners and their respective Affiliates, including the reasonable fees, charges and disbursements of a single firm of outside counsel to the Administrative Agent, the Joint Bookrunners and their respective Affiliates and to the extent reasonably determined by the Administrative Agent to be necessary and approved by the prior written consent of the Borrower, such approval not to be unreasonably withheld, one local counsel in each applicable jurisdiction (in addition to any reasonably necessary special counsel), in connection with the syndication of the credit facilities provided for herein, and the preparation, execution, delivery and administration of the Loan Documents or any amendments, modifications or waivers of the provisions thereof, (ii) all reasonable and documented or invoiced out-of-pocket costs and expenses incurred by each Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all reasonable and documented or invoiced out-of-pocket expenses incurred by the Administrative Agent, each Issuing Bank or any Lender, including the fees, charges and disbursements of counsel for the Administrative Agent, in connection with the enforcement of any rights or remedies, including all such reasonable and documented out-of-pocket costs and expenses incurred during any workout, restructuring or negotiations in respect of the Loans or Letters of Credit (A) in connection with the Loan Documents (including all such costs and expenses incurred during any legal proceeding, including any proceeding under any Debtor Relief Laws), including its rights under this Section or (B) in connection with the Loans made or Letters of Credit issued hereunder; **provided** that such counsel shall be limited to one lead counsel and such local counsel (in addition to any reasonably necessary special counsel) as may reasonably be deemed necessary by the Administrative Agent in each relevant jurisdiction for the Administrative Agent, the Issuing Banks and the Lenders (and, in the case of an actual or perceived conflict of interest where the Indemnitee affected by such conflict notifies the Borrower of any existence of such conflict and in connection with the investigating or defending any of the foregoing (including the reasonable fees) has retained its own counsel, of one lead counsel and such local counsel (in addition to any reasonably necessary special counsel) as may reasonably be deemed necessary by such affected party in each relevant jurisdiction for such affected party).

(b) The Borrower shall indemnify the Administrative Agent, each Issuing Bank, each Lender, each Joint Bookrunner, each Co-Syndication Agent, each Co-Documentation Agent and each Related Party of any of the foregoing Persons (each such Person being called an "**Indemnitee**") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and reasonable and documented or invoiced out-of-pocket fees and expenses of one firm of counsel for all Indemnitees, taken as a whole, selected by the Administrative Agent (and, in the case of an actual or perceived conflict of interest where the Indemnitee affected by such conflict notifies the Borrower of any existence of such conflict and in connection with the investigating or defending any of the foregoing (including the reasonable fees) has retained its own counsel, of another firm of counsel for such affected Indemnitee), and to the extent required, one firm or local counsel in each relevant jurisdiction (which may include a single special counsel acting in multiple jurisdictions), incurred by or asserted against any Indemnitee arising out of any claim, actions, suits, inquiries, litigation, investigation or proceeding in connection with, or as a result of (i) the execution or delivery of this Agreement, any Loan Document or any other agreement or instrument contemplated hereby or thereby, the performance by the parties to the Loan Documents of their respective obligations thereunder or the consummation of the Financing Transactions

or any other transactions contemplated thereby, (ii) any Loan or Letter of Credit or the use of the proceeds therefrom (including any refusal by an Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit) or (iii) to the extent in any way arising from or relating to any of the foregoing, any actual or alleged presence, Release or threat of Release of Hazardous Materials on, at, to or from any Mortgaged Property, any other property currently owned, leased or operated by the Borrower or any Subsidiary, or any other location, or any other Environmental Liability related in any way to the Borrower or any Subsidiary; in each case, whether based on contract, tort or any other theory, and regardless of whether such matter is brought by a third party or by the Borrower or any Subsidiary or any of their respective Affiliates and regardless of whether any Indemnitee is a party thereto; **provided** that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities, costs or related expenses are determined by a court of competent jurisdiction in a final and non-appealable judgment to have resulted from (x) the gross negligence, willful misconduct or bad faith of such Indemnitee or any of its Related Parties, (y) a material breach of an obligation under the Loan Documents by such Indemnitee or any of its Related Parties or (z) any claim, action, suit, inquiry, litigation, investigation or proceeding that does not involve an act or omission of the Borrower or any of its Affiliates and that is brought by an Indemnitee against any other Indemnitee (other than any claim, action, suit, inquiry, litigation, investigation or proceeding against the Administrative Agent, any Issuing Bank, any Joint Bookrunner, any Co-Syndication Agent or any Co-Documentation Agent in its capacity as such). This **Section 9.03(b)** shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) To the extent that the Borrower fails to pay any amount required to be paid by it to the Administrative Agent (or any sub-agent thereof), any Issuing Bank or any Related Party of any of the foregoing under **paragraph (a)** or **(b)** of this Section, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), such Issuing Bank or such Related Party, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; **provided** that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any sub-agent thereof), such Issuing Bank or such Related Party in its capacity as such. For purposes hereof, a Lender's "pro rata share" shall be determined based upon its share of the aggregate Revolving Exposures, outstanding Term Loans and unused Commitments at such time.

(d) No Loan Party nor any Indemnitee nor any Agent Party shall have any liability for any punitive, indirect or consequential damages resulting from this Agreement or any other Loan Document or arising out of its activities in connection herewith or therewith (whether before or after the Effective Date), including with respect to **Section 9.01(c)**; **provided** that the foregoing shall not limit the Borrower's indemnification obligations to any Indemnitee pursuant to **Section 9.03(b)** in respect of damages incurred or paid by an Indemnitee to a third party. No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems (including the Internet) in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby; **provided** that such indemnity shall not, as to any Indemnitee, be available to the extent that such damages are determined by a court of competent jurisdiction by final, non-appealable judgment to have resulted from the gross negligence, willful misconduct or bad faith of such Indemnitee or any of its Related Parties.

(e) All amounts due under this Section shall be payable not later than ten (10) Business Days after written demand therefor; **provided**, **however**, that any Indemnitee shall promptly refund an indemnification payment received hereunder to the extent that there is a final judicial determination that such Indemnitee was not entitled to indemnification with respect to such payment pursuant to this **Section 9.03**.

SECTION 9.04. **Successors and Assigns**.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of an Issuing Bank that issues any Letter of Credit), except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) (it being understood that this provision shall not be applicable to any transaction described in **Section 6.05(a)**), (ii) no assignment shall be made to any Defaulting Lender or any of its Subsidiaries, or any Persons who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this **clause (ii)** and (iii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of an Issuing Bank that issues any Letter of Credit), Participants (to the extent provided in **paragraph (c)** of this Section), the Indemnitees and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the Issuing Banks and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in **paragraphs (b)(ii)** and **(f)** below, any Lender may assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of (A) the Borrower; **provided** that no consent of the Borrower shall be required for an assignment (x) in the case of Term Loans only, to any other Lender, an Affiliate of any Lender or an Approved Fund, (y) by a Lender to a Revolving Lender or (z) if an Event of Default under **Section 7.01(a)**, **(b)**, **(h)** or **(i)** has occurred and is continuing, (B) the Administrative Agent; **provided** that no consent of the Administrative Agent shall be required for an assignment of Term Loans to a Lender, an Affiliate of a Lender or an Approved Fund or to an Affiliated Lender and (C) solely in the case of Revolving Loans and Revolving Commitments, each Issuing Bank; **provided** that, for the avoidance of doubt, no consent of any Issuing Bank shall be required for an assignment of all or any portion of a Term Loan or Term Commitment; **provided**, **further**, that it shall be understood that, without limitation, the Borrower shall have the right to withhold its consent to any assignment if, in order for such assignment to comply with any Requirement of Law, the Borrower would be required to obtain the consent of any Governmental Authority. Notwithstanding anything in this **Section 9.04** to the contrary, if the Borrower has not given the Administrative Agent written notice of its objection to such assignment of Term Loans within ten (10) Business Days after written notice to the Borrower, the Borrower shall be deemed to have consented to such assignment.

(ii) Assignments shall be subject to the following additional conditions: (A) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans of any Class, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the trade date specified in the Assignment and Assumption with respect to such assignment or, if no trade date is so specified, as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than $1,000,000, in the case of Term Loans (and integral multiples thereof), and $5,000,000, in the case of Revolving Commitments and Revolving Loans (and integral multiples thereof) unless the Borrower and the Administrative Agent otherwise consent (such consent not

to be unreasonably withheld or delayed); **provided** that no such consent of the Borrower shall be required if an Event of Default under **Section 7.01(a)**, **(b)**, **(h)** or **(i)** has occurred and is continuing, (B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement; **provided** that this **clause (B)** shall not be construed to prohibit assignment of a proportionate part of all the assigning Lender's rights and obligations in respect of one Class of Commitments or Loans, (C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together (unless waived by the Administrative Agent) with a processing and recordation fee of $3,500; **provided** that the Administrative Agent, in its sole discretion, may elect to waive such processing and recordation fee; **provided**, **further**, that assignments made pursuant to **Section 2.19(b)** or **Section 9.02(c)** shall not require the signature of the assigning Lender to become effective, and (D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent any tax forms required by **Section 2.17(e)** and an Administrative Questionnaire in which the assignee designates one or more credit contacts to whom all syndicate-level information (which may contain MNPI) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable Requirements of Law, including Federal, state and foreign securities laws.

(iii) Subject to acceptance and recording thereof pursuant to **paragraph (b)(v)** of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of (and subject to the obligations and limitations of) **Sections 2.15**, **2.16**, **2.17** and **9.03** and to any fees payable hereunder that have accrued for such Lender's account but have not yet been paid). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this **Section 9.04** shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with **paragraph (c)(i)** of this Section. Notwithstanding the foregoing, no assignee, which as of the date of any assignment to it pursuant to this **Section 9.04** would be entitled to any payments under **Sections 2.15** or **Sections 2.17** in an amount greater than the assigning Lender would have been entitled to as of such date with respect to the rights assigned, shall be entitled to such greater payments. The benefit of each Security Document shall be maintained in favor of the assignee (without prejudice to **Section 8.07**).

(iv) The Administrative Agent, acting for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal and interest amounts of the Loans and LC Disbursements owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent, the Issuing Banks and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. In addition, the Administrative Agent shall maintain on the Register information regarding the designation, and revocation of designation, of any Lender as a Defaulting Lender. The Register shall be available for inspection by the Borrower, the Issuing Banks and any Lender (solely with respect to its own Loans and Commitments), at any reasonable time and from time to time upon reasonable prior notice. The Register and subaccounts shall record any cancellation or retirement of Loans contemplated by **Section 2.11(a)(ii)** or this **Section 9.04**.

(v) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire and any tax forms required by **Section 2.17(e)** (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in **paragraph (b)** of this **Section 9.04** and any written consent to such assignment required by **paragraph (b)** of this **Section 9.04**, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(vi) The words "execution," "signed," "signature" and words of like import in any Assignment and Assumption 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 or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any Requirements of Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act or any other similar state laws based on the Uniform Electronic Transactions Act.

(c)(i) Any Lender may, without the consent of the Borrower, the Administrative Agent or the Issuing Banks, sell participations to one or more banks or other Persons other than a natural person or a Defaulting Lender (a "**Participant**") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans owing to it); **provided** that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and (C) the Borrower, the Administrative Agent, the Issuing Banks and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and any other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement and any other Loan Documents; **provided** that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to **Section 9.02(b)** that directly and adversely affects such Participant. Subject to **paragraph (c)(iii)** of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of **Sections 2.15**, **2.16** and **2.17** (subject to the obligations and limitations of such Sections, including **Section 2.17(e)**, and **Section 2.19** (it being understood that the documentation required under **Section 2.17(e)** shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to **paragraph (b)** of this Section. To the extent permitted by Requirements of Law, each Participant also shall be entitled to the benefits of **Section 9.08** as though it were a Lender; **provided** that such Participant agrees to be subject to **Section 2.18(c)** as though it were a Lender.

(ii) Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and related interest amounts) of each participant's interest in the Loans or other obligations under this Agreement (the "**Participant Register**"); **provided** that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Loans or its other obligations under this

Agreement) except to the extent that such disclosure is necessary in connection with a Tax audit or other Tax proceeding to establish that such Commitment, Loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive, absent manifest error, and the parties shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as such) shall have no responsibility for maintaining a Participant Register.

(iii) A Participant shall not be entitled to receive any greater payment under **Section 2.15** or **Section 2.17** than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant unless the sale of such participation is made with the Borrower's prior written consent or except to the extent such greater entitlement results from a Change in Law after the Participant acquired the applicable participation.

(d) Any Lender may, without the consent of the Borrower or the Administrative Agent, at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or other "central" bank, and this Section shall not apply to any such pledge or assignment of a security interest, **provided** that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(e) In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under Requirements of Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

(f) Any Lender may, at any time, assign all or a portion of its Term Loans and/or Term Commitments under this Agreement to an Affiliated Lender subject to the following limitations:

(i) Affiliated Lenders will not receive information provided solely to Lenders by the Administrative Agent, any Joint Bookrunner or any Lender and will not be permitted to attend or participate in meetings attended solely by the Lenders, the Administrative Agent and the Joint Bookrunners, other than the right to receives notice of Borrowings, notices of prepayments and other administrative notices in respect of its Loans or Commitments required to be delivered to Lenders pursuant to **Article II**;

(ii) for purposes of any amendment, waiver or modification of any Loan Document or, subject to **Section 9.02(e)**, any plan of reorganization pursuant to any Debtor Relief Law, that in either case does not adversely affect such Affiliated Lender (in its capacity as a Lender) in a disproportionately adverse manner as compared to other Lenders, Affiliated Lenders will be deemed to have voted in the same proportion as the Lenders that are not Affiliated Lenders voting on such matter; and each Affiliated Lender hereby acknowledges, agrees and consents that if, for any reason, its vote to accept or reject any plan pursuant to the Bankruptcy Code is not deemed to have been so voted, then such vote will be "designated" pursuant to Section 1126(e) of the Bankruptcy Code such that the vote is not counted in determining whether the applicable class has accepted or rejected such plan in accordance with Section 1126(c) of the Bankruptcy Code;

(iii) Affiliated Lenders may not purchase Revolving Loans by assignment pursuant to this **Section 9.04**;

(iv) the aggregate principal amount of Term Loans and Term Commitments purchased by assignment pursuant to this **Section 9.04** and held at any one time by Affiliated Lenders who are Non-Debt Fund Affiliates may not exceed 25% of the outstanding principal amount of all Term Loans and Term Commitments on the date of any such purchase; and

(v) any Affiliated Lender who is assigned any rights or obligations under this Agreement shall, prior to such assignment, notify the Administrative Agent that it is an Affiliated Lender.

(g) Notwithstanding anything to the contrary contained in this **Section 9.04** or any other provision of this Agreement (including **Section 2.11** and **Section 2.18**), so long as no Event of Default has occurred and is continuing or would result therefrom, the Borrower may make open market purchases of Term Loans (each, an "**Open Market Purchase**"), so long as the following conditions are satisfied:

(i) the Borrower shall not use any proceeds of Revolving Loans to fund any Open Market Purchase; and

(ii) the aggregate principal amount (calculated on the par amount thereof) of all Term Loans purchased shall automatically be cancelled and retired on the settlement date of the relevant purchase (and may not be resold).

(h) Notwithstanding anything in **Section 9.04** or the definition of "Required Lenders" to the contrary, for purposes of determining whether the Required Lenders or any other requisite Class vote required by this Agreement have (i) consented (or not consented) to any amendment, modification, waiver, consent or other action with respect to any of the terms of any Loan Document or any departure by any Loan Party therefrom, (ii) otherwise acted on any matter related to any Loan Document, or (iii) directed or required the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Loan Document, (A) all Term Loans held by any Non-Debt Fund Affiliate shall be deemed to be not outstanding for all purposes of calculating whether the Required Lenders (or requisite vote of any Class of Lenders) have taken any actions and (B) the aggregate amount of Term Loans held by Debt Fund Affiliates will be excluded to the extent in excess of 49.9% of the amount required to constitute "Required Lenders" (including in respect of a specific Class) (any such excess amount shall be deemed to be not outstanding on a pro rata basis among all Debt Fund Affiliates).

(i) The Administrative Agent shall have the right, and the Borrower hereby expressly authorizes the Administrative Agent, to disclose to any Lender (including any Public Lender) upon request whether any potential assignee or Participant of such Lender is a Disqualified Lender.

SECTION 9.05. **Survival**. All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to any Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, any Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Commitments have not expired or terminated. The provisions of **Sections 2.15**, **2.16**, **2.17** and **9.03** and **Article VIII** shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any provision hereof. Notwithstanding the foregoing or anything else to the contrary set forth in this Agreement, in the event that, in connection with the refinancing or repayment in full of the credit facilities provided for herein, an Issuing Bank shall have provided to the Administrative Agent a written consent to the release of the Revolving Lenders from their obligations hereunder with respect to any Letter of Credit issued by such Issuing Bank (whether as a result of the obligations of the Borrower (and any other account party) in respect of such Letter of Credit having been collateralized in full by a deposit of cash with such Issuing Bank or being supported by a letter of credit that names such Issuing Bank as the beneficiary thereunder, or otherwise), then from and after such time such Letter of Credit shall cease to be a "Letter of Credit" outstanding hereunder for all purposes of this Agreement and the other Loan Documents, and the Revolving Lenders shall be deemed to have no participations in such Letter of Credit, and no obligations with respect thereto, under **Section 2.05(e)** or **(f)**.

SECTION 9.06. **Counterparts; Integration; Effectiveness; Electronic Execution of Assignments and Certain Other Documents**.

(a) This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and any separate letter agreements with respect to fees payable to the Administrative Agent or the syndication of the Loans and Commitments constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in **Section 4.01**, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic means shall be effective as delivery of a manually executed counterpart of this Agreement.

(b) The words "execution," "execute", "signed," "signature," and words of like import in or related to any document to be signed in connection with this Agreement and the transactions contemplated hereby (including without limitation Assignment and Assumptions, amendments or other modifications, Notices of Borrowing, Interest Election Requests, waivers and consents) shall be deemed

to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Requirements of Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 9.07. **Severability**. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction. Without limiting the foregoing provisions of this **Section 9.07**, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent or any Issuing Bank, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

SECTION 9.08. **Right of Setoff**. If an Event of Default shall have occurred and be continuing, each Lender, each Issuing Bank, and each Affiliate of any of the foregoing, is hereby authorized at any time and from time to time, to the fullest extent permitted by Requirements of Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, any such Issuing Bank or such an Affiliate to or for the credit or the account of the Borrower against any of and all the obligations of the Borrower then due and owing under this Agreement held by such Lender or Issuing Bank, irrespective of whether or not such Lender or Issuing Bank shall have made any demand under this Agreement and although such obligations are owed to a branch or office or Affiliate of such Lender or Issuing Bank different from the branch or office or Affiliate holding such deposit or obligated on such Indebtedness; **provided** that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of **Section 2.22** and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Secured Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The applicable Lender and applicable Issuing Bank shall notify the Borrower and the Administrative Agent of such setoff and application; **provided** that any failure to give or any delay in giving such notice shall not affect the validity of any such setoff and application under this Section. The rights of each Lender, each Issuing Bank and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, such Issuing Bank and their respective Affiliates may have.

SECTION 9.09. **Governing Law; Jurisdiction; Consent to Service of Process**.

(a) This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of New York.

(b) Each party hereto hereby irrevocably and unconditionally:

(i) submits for itself and its property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the general and exclusive jurisdiction of the Supreme Court of the State of New York for the County of New York (the "**New York Supreme Court**"), and the United States District Court for the Southern District of New York (the "**Federal District Court**," and together with the New York Supreme Court, the "**New York Courts**"), and appellate courts from either of them;

(ii) consents that any such action or proceeding may be brought in such courts and waives, to the maximum extent not prohibited by law, any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient forum and agrees not to plead or claim the same;

(iii) agrees that the New York Courts and appellate courts from either of them shall be the exclusive forum for any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, and that it shall not initiate (or collusively assist in the initiation or prosecution of) any such action or proceeding in any court other than the New York Courts and appellate courts from either of them; **provided** that:

(A) if all such New York Courts decline jurisdiction over any Person, or decline (or in the case of the Federal District Court, lack) jurisdiction over the subject matter of such action or proceeding, a legal action or proceeding may be brought with respect thereto in another court having such jurisdiction;

(B) in the event that a legal action or proceeding is brought against any party hereto or involving any of its property or assets in another court (without any collusive assistance by such party or any of its Subsidiaries or Affiliates), such party shall be entitled to assert any claim or defense (including any claim or defense that this **Section 9.09(b)(iii)** would otherwise require to be asserted in a legal action or proceeding in a New York Court) in any such action or proceeding;

(C) the Administrative Agent and the Lenders may bring any legal action or proceeding against any Loan Party in any jurisdiction in connection with the enforcement of any rights under any Security Documents; **provided** that any Loan Party shall be entitled to assert any claim or defense (including any claim or defense that this **Section 9.09(b)(iii)** would otherwise require to be asserted in a legal action or proceeding in a New York Court) in any such action or proceeding; and

(D) any party hereto may bring any legal action or proceeding in any jurisdiction for the recognition and enforcement of any judgment;

(iv) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to the Borrower, the applicable Lender or the Administrative Agent, as the case may be, at the address specified in **Section 9.01** or at such other address of which the Administrative Agent, any such Lender and the Borrower shall have been notified pursuant thereto; and

(v) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or (subject to the preceding **clause (iii)**) shall limit the right to sue in any other jurisdiction.

SECTION 9.10. **WAIVER OF JURY TRIAL**. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 9.11. **Headings**. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 9.12. **Confidentiality**.

(a) Each of the Administrative Agent, the Issuing Banks and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed

(i) to its and its Affiliates' and to its and their respective directors, officers, employees, legal counsel, independent auditors, professionals and other experts or agents, in each case who need to know such Information in connection with the administration of the Loan Documents and who are informed of the confidential nature of such Information and who are subject to customary confidentiality obligations of professional practice or who agree to be bound by the terms of this paragraph (or language substantially similar to this paragraph) (it being understood that each of the Administrative Agent, Issuing Banks and Lenders shall be responsible for any breach of this provision by any of their respective Related Parties),

(ii) to the extent requested by any regulatory authority or self-regulatory authority, required by Requirements of Law or by any subpoena or similar legal process; **provided** that solely to the extent permitted by Requirements of Law and other than in connection with audits and reviews by regulatory and self-regulatory authorities, each Issuing Bank, Lender and the Administrative Agent shall notify the Borrower as promptly as practicable of any such requested or required disclosure in connection with any legal or regulatory proceeding prior to any disclosure of such Information; **provided further** that in no event shall any Lender, any Issuing Bank or the Administrative Agent be obligated or required to return after such Person receives notice of any materials furnished by the Borrower or any subsidiary of the Borrower,

(iii) to any other party to this Agreement,

(iv) subject to an agreement containing confidentiality undertakings substantially similar (or at least as restrictive) to those of this Section, to (A) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement, (B) any actual or prospective direct or indirect contractual counterparty (or its advisors) to any Swap Agreement or derivative transaction relating to any Loan Party or its Subsidiaries and its obligations under the Loan Documents or (C) any pledgee referred to in **Section 9.04(d)**, and

(v) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or any similar confidentiality obligations or (y) becomes available to the Administrative Agent, any Issuing Bank, any Lender or any of their respective Affiliates on a non-confidential basis from a source other than the Borrower that is not subject to confidentiality obligations owing to the Borrower or any of their Subsidiaries.

For the purposes of this **Section 9.12**, "Information" means all non-public information received from the Borrower relating to the Borrower, any other Subsidiary or their business. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

(b) EACH LENDER ACKNOWLEDGES THAT INFORMATION AS DEFINED IN **SECTION 9.12(a)** FURNISHED TO IT PURSUANT TO THIS AGREEMENT MAY INCLUDE MNPI AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MNPI AND THAT IT WILL HANDLE SUCH MNPI IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.

(c) ALL INFORMATION, INCLUDING REQUESTS FOR WAIVERS AND AMENDMENTS FURNISHED BY THE BORROWER OR THE ADMINISTRATIVE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT, WILL BE SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MNPI. ACCORDINGLY, EACH LENDER REPRESENTS TO THE BORROWER AND THE ADMINISTRATIVE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE QUESTIONNAIRE A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MNPI IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.

SECTION 9.13. **USA PATRIOT Act; Beneficial Ownership Regulations**. Each Lender that is subject to the USA PATRIOT Act or the Beneficial Ownership Regulation and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies each Loan Party that pursuant to the requirements of the USA PATRIOT Act and the Beneficial Ownership Regulation it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the USA PATRIOT Act and the Beneficial Ownership Regulation.

SECTION 9.14. **Judgment Currency**.

(a) If, for the purpose of obtaining judgment in any court, it is necessary to convert a sum owing hereunder in one currency into another currency, each party hereto agrees, to the fullest extent that it may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures in the relevant jurisdiction the first currency could be purchased with such other currency on the Business Day immediately preceding the day on which final judgment is given.

(b) The obligations of the Borrower in respect of any sum due to any party hereto or any holder of any obligation owing hereunder (the "**Applicable Creditor**") shall, notwithstanding any judgment in a currency (the "**Judgment Currency**") other than the currency in which such sum is stated to be due hereunder (the "**Agreement Currency**"), be discharged only to the extent that, on the Business Day following receipt by the Applicable Creditor of any sum adjudged to be so due in the Judgment Currency, the Applicable Creditor may in accordance with normal banking procedures in the relevant jurisdiction purchase the Agreement Currency with the Judgment Currency; if the amount of the Agreement Currency so purchased is less than the sum originally due to the Applicable Creditor in the Agreement Currency, the Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Applicable Creditor against such loss. The obligations of the Borrower under this Section shall survive the termination of this Agreement and the payment of all other amounts owing hereunder.

SECTION 9.15. **Release of Liens and Guarantees**.

(a) The Lenders hereby irrevocably agree that the Liens granted to the Administrative Agent by the Loan Parties on any Collateral shall be automatically released

(i) in full, as set forth in **clause (b)** below,

(ii) upon the sale, transfer or other Disposition (including by any Disposition by means of a Restricted Payment) of such Collateral (including as part of or in connection with any other sale, transfer or other Disposition (including by any Disposition by means of a Restricted Payment) permitted hereunder) to any Person other than another Loan Party, to the extent such sale, transfer or other Disposition (including by any Disposition by means of a Restricted Payment) is made in compliance with the terms of this Agreement (and the Administrative Agent may rely conclusively on a certificate to that effect provided to it by any Loan Party upon its reasonable request without further inquiry),

(iii) to the extent such Collateral is comprised of property leased to a Loan Party by a Person that is not a Loan Party, upon termination or expiration of such lease,

(iv) if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders (or such other percentage of the Lenders whose consent may be required in accordance with **Section 9.02**),

(v) to the extent the property constituting such Collateral is owned by any Subsidiary Loan Party, upon the release of such Subsidiary Loan Party from its obligations under the Loan Guaranty and the Security Agreement (in accordance with the third succeeding sentence, Section 3.15 of the Loan Guaranty and Section 7.12 of the Security Agreement), and

(vi) as required by the Administrative Agent to effect any sale, transfer or other Disposition of Collateral in connection with any exercise of remedies of the Administrative Agent pursuant to the Security Documents.

In addition, upon the receipt of prior written notice from the Borrower, the Lenders hereby irrevocably agree that the Liens granted to the Administrative Agent by the Loan Parties on any Collateral to the extent such Collateral otherwise becomes Excluded Assets shall be released by the Administrative Agent. Any such release shall not in any manner discharge, affect, or impair the Secured Obligations or any Liens (other than those being released) upon (or obligations (other than those being released) of the Loan Parties in respect of) all interests retained by the Loan Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral except to the extent otherwise released in accordance with the provisions of the Loan Documents. Additionally, the Lenders hereby irrevocably

agree that a Subsidiary Loan Party shall be released from the Loan Guaranty and the Security Agreement upon consummation of any transaction permitted hereunder resulting in such Subsidiary ceasing to constitute a Restricted Subsidiary or, after written notice is delivered by the Borrower to the Administrative Agent, otherwise becoming an Excluded Subsidiary.

(b) Notwithstanding anything to the contrary contained herein or any other Loan Document, when all Loan Document Obligations (other than contingent amounts not then due) have been paid in full, all Commitments have terminated or expired and no Letter of Credit shall be outstanding that is not Cash Collateralized or back-stopped in a manner reasonably satisfactory to the applicable Issuing Banks, upon request of the Borrower, the Administrative Agent shall (without notice to, or vote or consent of, any Secured Party) take such actions as shall be required to release its security interest in all Collateral, and to release all obligations under any Loan Document, whether or not on the date of such release there may be any (i) Secured Swap Obligations outstanding, (ii) Secured Cash Management Obligations outstanding and (iii) any contingent amounts not then due. Any such release of Guarantees and Collateral shall be deemed subject to the provision that the Guarantees under the Loan Guaranty and the Administrative Agent's security interests in such Collateral shall be reinstated if after such release any portion of any payment in respect of the Loan Document Obligations secured thereby shall be rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Borrower or any other Loan Party, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, the Borrower or any other Loan Party or any substantial part of its property, or otherwise, all as though such payment had not been made.

(c) The Administrative Agent will, at the Borrower's expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to subordinate its Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by **Section 6.02(i)** or **(j)**.

(d) Each of the Lenders and the Issuing Bank irrevocably authorizes the Administrative Agent to provide any release or evidence of release, termination or subordination contemplated by this **Section 9.15**. Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Loan Party from its obligations under any Loan Document, in each case in accordance with the terms of the Loan Document and this **Section 9.15**.

SECTION 9.16. **No Advisory or Fiduciary Responsibility**. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), the Borrower acknowledges (on its own behalf and on behalf of its Affiliates) and agrees that (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent, the Co-Syndication Agents, the Co-Documentation Agents, the Lenders and the Joint Bookrunners are arm's-length commercial transactions between the Borrower and its Affiliates, on the one hand, and the Administrative Agent, the Co-Syndication Agents, the Co-Documentation Agents, the Lenders and the Joint Bookrunners, on the other hand, (B) the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) each of the Administrative Agent, the Co-Syndication Agents, the Co-Documentation Agents, the Lenders and the Joint Bookrunners is and has been acting solely as a principal and has not been, is not and will not be acting as an advisor, agent or fiduciary for the Borrower or any of its Affiliates in connection with the Transactions and (B) none of the Administrative Agent, the Co-Syndication Agents, the Co-Documentation Agents, the Lenders and the Joint Bookrunners has any obligation to the Borrower or any of its Affiliates with respect to the transactions

contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent, the Co-Syndication Agents, the Co-Documentation Agents, the Lenders and the Joint Bookrunners and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and none of the Administrative Agent, the Lenders and the Joint Bookrunners has any obligation to disclose any of such interests to the Borrower or any of its Affiliates. The Borrower hereby agrees that it will not claim that the Administrative Agent, the Co-Syndication Agents, the Co-Documentation Agents and the Joint Bookrunners have rendered advisory services of any nature or respect, or owe a fiduciary or similar duty to the Borrower, in connection with the Transactions or the process leading thereto.

SECTION 9.17. **Interest Rate Limitation**. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts that are treated as interest on such Loan under applicable law (collectively the "**Charges**"), shall exceed the maximum lawful rate (the "**Maximum Rate**") that may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.18. **Additional Secured Indebtedness**.

(a) In connection with the incurrence by the Borrower or any Restricted Subsidiary of any Indebtedness that is, or is intended to be, secured by Liens on the Collateral that are intended to rank equal in priority with (but without regard to the control of remedies) or junior in priority to the Liens on the Collateral securing the Secured Obligations, at the request of Borrower, the Administrative Agent (including in its capacity as "collateral agent" under the Loan Documents) agrees to execute and deliver a Customary Intercreditor Agreement, with any amendments, amendments and restatements, restatements or waivers of or supplements to or other modifications thereto, as applicable, and any amendments, amendments and restatements, restatements or waivers of or supplements to or other modifications to, any Security Document, and to make or consent to any filings or take any other actions in connection therewith, as may be reasonably determined by the Borrower, with the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed), to be necessary or reasonably desirable for any Lien on the Collateral in respect of such Indebtedness to become a valid, perfected lien (with such priority as may be designated by the Borrower, to the extent such priority is permitted by the Loan Documents) pursuant to the Security Document being so amended, amended and restated, restated, waived, supplemented or otherwise modified. In connection with any such amendment, restatement, waiver, supplement or other modification, the Loan Parties shall deliver such officers' certificates and supporting documentation as the Administrative Agent may reasonably request. The Lenders hereby authorize the Administrative Agent to take any action contemplated by the preceding sentence, and any such amendment, amendment and restatement, restatement, waiver of or supplement to or other modification of any such Loan Document shall be effective notwithstanding the provisions of **Section 9.02**.

(b) The Administrative Agent (including in its capacity as "collateral agent" under the Loan Documents) is authorized by the Lenders (i) to enter into any amendments, amendments and restatements, restatements or waivers of or supplements to or other modifications to any Customary Intercreditor Agreement, as applicable, and any amendments, amendments and restatements, restatements

or waivers of or supplements to or other modifications to, any Security Document, as provided in the preceding paragraph (a) and (ii) to enter into any Customary Intercreditor Agreement, as applicable, in connection with the incurrence by the Borrower or any Restricted Subsidiary of any Indebtedness that is secured by Liens on the Collateral that rank or are intended to rank equal in priority with (but without regard to the control of remedies), or that rank or are intended to rank, junior in priority to, the Liens on the Collateral securing the Secured Obligations, and if any such intercreditor agreement is posted to the Lenders five Business Days before being executed and the Required Lenders shall not have objected to such intercreditor agreement, the Required Lenders shall be deemed to have consented to such intercreditor agreement and the Administrative Agent's execution thereof.

SECTION 9.19. **Acknowledgement and Consent to Bail-In of Affected Financial Institutions**. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any of the parties hereto, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of an the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of the applicable Resolution Authority.

SECTION 9.20. **Acknowledgement Regarding Any Supported QFCs**. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Swap Agreements or any other agreement or instrument that is a QFC (such support, "**QFC Credit Support**" and each such QFC, a "**Supported QFC**"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "**U.S. Special Resolution Regimes**") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

In the event a Covered Entity that is party to a Supported QFC (each, a "**Covered Party**") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the

transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

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

WW INTERNATIONAL, INC., as the Borrower

By: /s/ Amy O'Keefe
Name: Amy O'Keefe
Title: Chief Financial Officer

BANK OF AMERICA, N.A., as the Administrative Agent

By: /s/ Carol Alfonso
Name: Carol Alfonso
Title: Assistant Vice President

BANK OF AMERICA, N.A., individually as a Lender and as an Issuing Bank

By: /s/ John Falke
Name: John Falke
Title: Senior Vice President

GOLDMAN SACHS BANK USA, individually as a Lender

By: /s/ Thomas Manning
Name: Thomas Manning
Title: Authorized Signatory

[Signature Page to Credit Agreement]

JPMORGAN CHASE BANK, N.A., individually as a Lender and as an Issuing Bank

By: /s/ Sarah Gang
Name: Sarah Gang
Title: Executive Director

[Signature Page to Credit Agreement]

KEYBANK NATIONAL ASSOCIATION, individually as a Lender

By: /s/ J.E. Fowler
Name: J.E. Fowler
Title: Managing Director

[Signature Page to Credit Agreement]

TRUIST BANK, individually as a Lender

By: /s/ Steve Curran
Name: Steve Curran
Title: Director

[Signature Page to Credit Agreement]

Exhibit 10.2

Execution Version

EQUAL PRIORITY INTERCREDITOR AGREEMENT

among

WW INTERNATIONAL, INC.,

THE OTHER GRANTORS PARTY HERETO,

BANK OF AMERICA, N.A.,
as Senior Credit Facilities Collateral Agent for the Senior Credit Facilities Secured Parties,

THE BANK OF NEW YORK MELLON,
as the Notes Collateral Agent for the Indenture Secured Parties,

and

each Additional Agent from time to time party hereto

dated as of April 13, 2021

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EQUAL PRIORITY INTERCREDITOR AGREEMENT, dated as of April 13, 2021 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, this "**Agreement**"), among WW International, Inc., a Virginia corporation (the "**Borrower**"), the other Grantors (as defined below) party hereto, Bank of America, N.A., as collateral agent for the Senior Credit Facilities Secured Parties (as defined below) (in such capacity and together with its successors in such capacity, the "**Senior Credit Facilities Collateral Agent**"), The Bank of New York Mellon, as collateral agent for the Indenture Secured Parties (as defined below) (in such capacity and together with its successors in such capacity, the "**Notes Collateral Agent**"), and each Additional Agent from time to time party hereto for the Additional Equal Priority Secured Parties of the Series with respect to which it is acting in such capacity.

In consideration of the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Senior Credit Facilities Collateral Agent (for itself and on behalf of the Senior Credit Facilities Secured Parties), the Notes Collateral Agent (for itself and on behalf of the Indenture Secured Parties) and each Additional Agent (for itself and on behalf of the Additional Equal Priority Secured Parties of the applicable Series) agree as follows:

ARTICLE I

Definitions

SECTION 1.01. Certain Defined Terms. Capitalized terms used but not otherwise defined herein have the meanings set forth in the Senior Credit Agreement and the Indenture, as applicable, with the Senior Credit Agreement controlling in the event of discrepancies, or, if defined in the New York UCC, the meanings specified therein. As used in this Agreement, the following terms have the meanings specified below:

"**Additional Agent**" means the collateral agent and the administrative agent and/or trustee (as applicable) or any other similar agent or Person under any Additional Equal Priority Documents, in each case, together with its successors in such capacity.

"**Additional Equal Priority Debt Facility**" means one or more debt facilities, commercial paper facilities or indentures with respect to which the requirements of Section 5.13 of this Agreement have been satisfied, in each case with banks, other lenders or trustees providing for revolving credit loans, term loans, letters of credit, notes or other borrowings, in each case, as amended, restated, supplemented or otherwise modified, refinanced or replaced from time to time; provided that neither the Senior Credit Agreement nor the Indenture shall constitute an Additional Equal Priority Debt Facility at any time.

"**Additional Equal Priority Documents**" means, with respect to any Series of Additional Equal Priority Obligations, the notes, credit agreements, indentures, security documents and other operative agreements evidencing or governing such indebtedness, and each other agreement entered into for the purpose of securing any Series of Additional Equal Priority Obligations.

"**Additional Equal Priority Obligations**" means, with respect to any Additional Equal Priority Debt Facility, (a) all principal of, and interest (including, without limitation, any interest, fees and other amounts that accrue after the commencement of any Bankruptcy Case, whether or not allowed or allowable as a claim in any such proceeding) payable with respect to, such Additional Equal Priority Debt Facility, (b) all other amounts payable to the related Additional Equal Priority Secured Parties under the related Additional Equal Priority Documents and (c) any Refinancing of the foregoing.

"**Additional Equal Priority Secured Party**" means, with respect to any Series of Additional Equal Priority Obligations, the holders of such Additional Equal Priority Obligations, the Additional Agent with respect thereto, any trustee or agent or any other similar agent or Person therefor under any related Additional Equal Priority Documents and the beneficiaries of each indemnification obligation undertaken by the Borrower or any guarantor under any related Additional Equal Priority Documents.

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

"**Bankruptcy Case**" has the meaning assigned to such term in Section 2.05(b).

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

"**Bankruptcy Law**" means the Bankruptcy Code and all other liquidation, conservatorship, bankruptcy, general assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization or similar debtor relief laws of the U.S. or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"**Borrower**" has the meaning assigned to such term in the preamble hereto.

"**Business Day**" means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the laws of, or are in fact closed in, New York City.

"**Collateral**" means all assets and properties subject to Liens created pursuant to any Equal Priority Security Document to secure one or more Series of Equal Priority Obligations.

"**Collateral Agent**" means (a) in the case of any Senior Credit Facilities Obligations, the Senior Credit Facilities Collateral Agent, (b) in the case of the Indenture Obligations, the Notes Collateral Agent, and (c) in the case of any Series of Additional Equal Priority Obligations or Additional Equal Priority Secured Parties that become subject to this Agreement after the date hereof, the Additional Agent named for such Series in the applicable Joinder Agreement.

"**Controlling Collateral Agent**" means, with respect to any Shared Collateral, (a) until the Controlling Collateral Agent Change Date, the Senior Credit Facilities Collateral Agent and (b) from and after the Controlling Collateral Agent Change Date, the Major Non-Controlling Collateral Agent.

"**Controlling Collateral Agent Change Date**" means the earlier of (a) the Discharge of Senior Credit Facilities Obligations and (b) the Non-Controlling Collateral Agent Enforcement Date.

"**Controlling Secured Parties**" means, with respect to any Shared Collateral, the Series of Equal Priority Secured Parties whose Collateral Agent is the Controlling Collateral Agent for such Shared Collateral.

"**DIP Financing**" has the meaning assigned to such term in Section 2.05(b).

"**DIP Financing Liens**" has the meaning assigned to such term in Section 2.05(b).

"**DIP Lenders**" has the meaning assigned to such term in Section 2.05(b).

"**Discharge**" means, with respect to any Shared Collateral and any Series of Equal Priority Obligations, the date on which such Series of Equal Priority Obligations is no longer secured by such Shared Collateral. The term "**Discharged**" shall have a corresponding meaning.

"**Discharge of Equal Priority Obligations**" means, with respect to any Shared Collateral, the Discharge of all Equal Priority Obligations with respect to such Shared Collateral.

"**Discharge of Senior Credit Facilities Obligations**" means, with respect to any Shared Collateral, the Discharge of all Senior Credit Facilities Obligations with respect to such Shared Collateral; provided that a Discharge of Senior Credit Facilities Obligations shall not be deemed to have occurred in connection with a Refinancing of such Senior Credit Facilities Obligations with additional Equal Priority Obligations secured by such Shared Collateral under an agreement that has been designated in writing by the Senior Credit Facilities Collateral Agent or by the Borrower, in each case, to each other Collateral Agent as the "Senior Credit Agreement" for purposes of this Agreement.

"**Electronic Means**" means the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Notes Collateral Agent, or another method or system specified by the Notes Collateral Agent as available for use in connection with its services hereunder.

"**Equal Priority Obligations**" means, collectively, (a) the Senior Credit Facilities Obligations, (b) the Indenture Obligations and (c) each Series of Additional Equal Priority Obligations.

"**Equal Priority Secured Parties**" means (a) the Senior Credit Facilities Secured Parties, (b) the Indenture Secured Parties and (c) the Additional Equal Priority Secured Parties with respect to each Series of Additional Equal Priority Obligations.

"**Equal Priority Security Documents**" means the Senior Credit Facilities Security Agreement, the other Security Documents (as defined in the Senior Credit Agreement), the Notes Security Agreement, the other Security Documents (as defined in the Indenture) and each other agreement entered into in favor of any Collateral Agent for the purpose of securing any Series of Equal Priority Obligations and any Junior Priority Intercreditor Agreement.

"**Event of Default**" means an "Event of Default" (or any other similarly defined term) as defined in any Secured Credit Document.

"**Grantors**" means the Borrower and each Subsidiary of the Borrower that has granted a security interest pursuant to any Equal Priority Security Document to secure any Series of Equal Priority Obligations. The Grantors existing on the date hereof are set forth in Annex I hereto.

"**Impairment**" has the meaning assigned to such term in Section 1.03.

"**Indenture**" means that certain Indenture, dated as of April 13, 2021, among the Borrower, the guarantors party thereto and The Bank of New York Mellon, as trustee and notes collateral agent, as such Indenture may be further amended, restated, supplemented, increased or otherwise modified, refinanced or replaced from time to time.

"**Indenture Obligations**" means the "Secured Obligations" as defined in the Notes Security Agreement.

"**Indenture Secured Parties**" means the "Secured Parties" as defined in the Notes Security Agreement.

"**Insolvency or Liquidation Proceeding**" means:

(a) any case or proceeding commenced by or against the Borrower or any other Grantor under the Bankruptcy Code or any other Bankruptcy Law, any other case or proceeding for the reorganization, recapitalization or adjustment or marshalling of the assets or liabilities of the Borrower or any other Grantor, any receivership or assignment for the benefit of creditors relating to the Borrower or any other Grantor or any similar case or proceeding relative to the Borrower or any other Grantor or its creditors, as such, in each case whether or not voluntary;

(b) any liquidation, dissolution, marshalling of assets or liabilities or other winding up of or relating to the Borrower or any other Grantor, in each case whether or not voluntary and whether or not involving bankruptcy or insolvency; or

(c) any other case or proceeding of any type or nature in which substantially all claims of creditors of the Borrower or any other Grantor are determined and any payment or distribution is or may be made on account of such claims.

"**Intervening Creditor**" shall have the meaning assigned to such term in Section 2.01(a).

"**Joinder Agreement**" means a supplement to this Agreement in the form of Annex II hereof required to be delivered by an Additional Agent to the Controlling Collateral Agent pursuant to Section 5.13 hereto in order to establish a Series of Additional Equal Priority Obligations and become Additional Equal Priority Secured Parties hereunder.

"**Junior Priority Intercreditor Agreement**" means (i) a "Junior Priority Intercreditor Agreement" substantially in the form of Exhibit Q-2 to the Senior Credit Agreement and Exhibit D to the Indenture or (ii) an intercreditor agreement that constitutes both (A) an "Acceptable Junior Priority Intercreditor Agreement" for purposes of the Indenture and (B) a "Customary Intercreditor Agreement" for purposes of the Senior Credit Agreement.

"**Major Non-Controlling Collateral Agent**" means, with respect to any Shared Collateral and at any time, the Collateral Agent (other than the Senior Credit Facilities Collateral Agent) of the Series of Equal Priority Obligations that constitutes the largest outstanding aggregate principal amount of any then outstanding Series of Equal Priority Obligations (excluding the Series of Senior Credit Facilities Obligations) with respect to such Shared Collateral.

"**New York UCC**" means the Uniform Commercial Code as from time to time in effect in the State of New York.

"**Non-Controlling Collateral Agent**" means, at any time with respect to any Shared Collateral, any Collateral Agent that is not the Controlling Collateral Agent at such time with respect to such Shared Collateral.

"**Non-Controlling Collateral Agent Enforcement Date**" means, with respect to any Non-Controlling Collateral Agent, the date that is 90 days (throughout which 90-day period such Non-Controlling Collateral Agent was the Major Non-Controlling Collateral Agent) after the occurrence of both (a) an Event of Default under and as defined in the Secured Credit Documents for the applicable Series of Equal Priority Obligations under which such Non-Controlling Collateral Agent is the Collateral Agent, but only for so long as such Event of Default is continuing and (b) the Controlling Collateral Agent and each other Collateral Agent's receipt of written notice from such Non-Controlling Collateral Agent certifying that (i) such Non-Controlling Collateral Agent is the Major Non-Controlling Collateral Agent and that an Event of Default under and as defined in the Secured Credit Documents under which such Non-Controlling Collateral Agent is the Collateral Agent has occurred and is continuing and (ii) the Equal Priority Obligations of the Series with respect to which such Non-Controlling Collateral Agent is the Collateral Agent are currently due and payable in full (whether as a result of acceleration thereof or otherwise) in accordance with the terms of the applicable Secured Credit Documents for that Series of Equal Priority Obligations; provided that the Non-Controlling Collateral Agent Enforcement Date shall be stayed and shall not occur and shall be deemed not to have occurred with respect to any Shared Collateral (x) at any time the Controlling Collateral Agent has commenced and is diligently pursuing any enforcement action with respect to such Shared Collateral or (y) at any time that the Grantor that has granted a security interest in such Shared Collateral is then a debtor under or with respect to (or otherwise subject to) any Insolvency or Liquidation Proceeding.

"**Non-Controlling Secured Parties**" means, with respect to any Shared Collateral, the Equal Priority Secured Parties that are not Controlling Secured Parties with respect to such Shared Collateral.

"**Notes Collateral Agent**" has the meaning assigned to such term in the preamble hereto.

"**Notes Security Agreement**" means the "Security Agreement" as defined in the Indenture.

"**Possessory Collateral**" means any Shared Collateral in the possession of any Collateral Agent (or its agents or bailees), to the extent that possession thereof perfects a Lien thereon under the Uniform Commercial Code of any jurisdiction. Possessory Collateral includes, without limitation, any certificated Securities, Instruments and Tangible Chattel Paper, in each case, delivered to or in the possession of the Collateral Agent under the terms of the Equal Priority Security Documents.

"**Proceeds**" has the meaning assigned to such term in Section 2.01(a).

"**Refinance**" means, with respect to any Indebtedness, to refinance, extend, renew, defease, amend, increase, restate, modify, supplement, restructure, refund, replace, repay, redeem, repurchase, acquire, prepay, retire or extinguish such Indebtedness or to enter into alternative financing arrangements to exchange or replace (in whole or in part) such Indebtedness, including by adding or replacing lenders, creditors, agents, borrowers and/or guarantors, or, after the original instrument giving rise to such Indebtedness has been terminated, by entering into any credit agreement, loan agreement, note purchase agreement, indenture or other agreement. "**Refinanced**" and "**Refinancing**" have correlative meanings.

"**Secured Credit Document**" means (a) the Senior Credit Agreement and each other Loan Document (as defined in the Senior Credit Agreement), (b) the Indenture, the Notes (as defined in the Indenture), the Notes Security Agreement and each other Security Document (as defined in the Indenture) and (c) each Additional Equal Priority Document.

"**Senior Class Debt**" shall have the meaning assigned to such term in Section 5.13.

"**Senior Class Debt Parties**" shall have the meaning assigned to such term in Section 5.13.

"**Senior Class Debt Representative**" shall have the meaning assigned to such term in Section 5.13.

"**Senior Collateral Agent**" shall have the meaning assigned to such term in Section 4.01(a).

"**Senior Credit Agreement**" means that certain Credit Agreement dated as of April 13, 2021, as amended, restated, amended and restated, supplemented, increased or otherwise modified, refinanced or replaced from time to time, among the Borrower, the lenders from time to time party thereto and Bank of America, N.A., as administrative agent and an issuing bank.

"**Senior Credit Facilities Collateral Agent**" has the meaning assigned to such term in the preamble hereto.

"**Senior Credit Facilities Obligations**" means the "Secured Obligations" as defined in the Senior Credit Agreement. Notwithstanding anything to the contrary, when used in the definition of the term "Discharge of Senior Credit Facilities Obligations" in this Agreement, the term "Senior Credit Facilities Obligations" means "Loan Document Obligations" as defined in the Senior Credit Agreement.

"**Senior Credit Facilities Secured Parties**" means the "Secured Parties" as defined in the Senior Credit Agreement.

"**Senior Credit Facilities Security Agreement**" means the "Security Agreement" as defined in the Senior Credit Agreement.

"**Senior Liens**" means the Liens on the Collateral in favor of the Equal Priority Secured Parties under the Equal Priority Security Documents.

"**Series**" means (a) with respect to the Equal Priority Secured Parties, each of (i) the Senior Credit Facilities Secured Parties (in their capacity as such), (ii) the Indenture Secured Parties (in their capacity as such) and (iii) the Additional Equal Priority Secured Parties that become subject to this Agreement after the date hereof that are represented by a common Collateral Agent (in its capacity as such for such Additional Equal Priority Secured Parties) and (b) with respect to any Equal Priority Obligations, each of (i) the Senior Credit Facilities Obligations, (ii) the Indenture Obligations and (iii) the Additional Equal Priority Obligations incurred pursuant to any Additional Equal Priority Debt Facility or any related Additional Equal Priority Documents, which pursuant to any Joinder Agreement are to be represented under this Agreement by a common Collateral Agent (in its capacity as such for such Additional Equal Priority Obligations).

"**Shared Collateral**" means, at any time, Collateral in which the holders of two or more Series of Equal Priority Obligations (or their respective Collateral Agents) hold a valid and perfected security interest at such time. If more than two Series of Equal Priority Obligations are outstanding at any time and the holders of less than all Series of Equal Priority Obligations hold a valid and perfected security interest in any Collateral at such time, then such Collateral shall constitute Shared Collateral for those Series of Equal Priority Obligations that hold a valid security interest in such Collateral at such time and shall not constitute Shared Collateral for any Series that does not have a valid and perfected security interest in such Collateral at such time.

"**Uniform Commercial Code**" or "**UCC**" means the New York UCC, or the Uniform Commercial Code (or any similar or comparable legislation) of another jurisdiction, to the extent it may be required to apply to any item or items of Collateral.

SECTION 1.02. Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument, other document, statute or regulation herein shall be construed as referring to such agreement, instrument, other document, statute or regulation as from time to time amended,

supplemented or otherwise modified, (ii) any reference herein to any Person shall be construed to include such Person's successors and assigns, but shall not be deemed to include the subsidiaries of such Person unless express reference is made to such subsidiaries, (iii) the words "herein," "hereof" and "hereunder" and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (iv) all references herein to Articles, Sections and Annexes shall be construed to refer to Articles, Sections and Annexes of this Agreement, (v) unless otherwise expressly qualified herein, the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights and (vi) the term "or" is not exclusive.

SECTION 1.03. Impairments. It is the intention of the Equal Priority Secured Parties of each Series that the holders of Equal Priority Obligations of such Series (and not the Equal Priority Secured Parties of any other Series) bear the risk of (i) any determination by a court of competent jurisdiction that (x) any of the Equal Priority Obligations of such Series are unenforceable under applicable law or are subordinated to any other obligations (other than another Series of Equal Priority Obligations), (y) any of the Equal Priority Obligations of such Series do not have an enforceable security interest in any of the Collateral securing any other Series of Equal Priority Obligations and/or (z) any intervening security interest exists securing any other obligations (other than another Series of Equal Priority Obligations) on a basis ranking prior to the security interest of such Series of Equal Priority Obligations but junior to the security interest of any other Series of Equal Priority Obligations or (ii) the existence of any Collateral for any other Series of Equal Priority Obligations that is not Shared Collateral (any such condition referred to in the foregoing clauses (i) or (ii) with respect to any Series of Equal Priority Obligations, an "**Impairment**" of such Series); provided that the existence of a maximum claim with respect to Mortgaged Properties (as defined in the Senior Credit Agreement) which applies to all Equal Priority Obligations shall not be deemed to be an Impairment of any Series of Equal Priority Obligations. In the event of any Impairment with respect to any Series of Equal Priority Obligations, the results of such Impairment shall be borne solely by the holders of such Series of Equal Priority Obligations, and the rights of the holders of such Series of Equal Priority Obligations (including, without limitation, the right to receive distributions in respect of such Series of Equal Priority Obligations pursuant to Section 2.01) set forth herein shall be modified to the extent necessary so that the effects of such Impairment are borne solely by the holders of the Series of such Equal Priority Obligations subject to such Impairment. Additionally, in the event the Equal Priority Obligations of any Series are modified pursuant to applicable law (including, without limitation, pursuant to Section 1129 of the Bankruptcy Code), any reference to such Equal Priority Obligations or the Secured Credit Documents governing such Equal Priority Obligations shall refer to such obligations or such documents as so modified.

ARTICLE II

Priorities and Agreements with Respect to Shared Collateral

SECTION 2.01. Priority of Claims.

(a) Anything contained herein or in any of the Secured Credit Documents to the contrary notwithstanding (but subject to Section 1.03), if an Event of Default has occurred and is continuing and the Controlling Collateral Agent is taking action to enforce rights in respect of any Shared Collateral, or any distribution is made in respect of any Shared Collateral in any Bankruptcy Case of the Borrower or any other Grantor or any Equal Priority Secured Party receives any payment pursuant to any intercreditor agreement (other than this Agreement) with respect to any Shared Collateral, the proceeds of any sale, collection or other liquidation of any such Shared Collateral by any Collateral Agent or any Equal Priority Secured Party and proceeds of any such distribution or payment (all proceeds of any sale, collection or other liquidation of any Shared Collateral and all proceeds of any such distribution or payment being collectively referred to as "**Proceeds**"), shall be applied (i) FIRST, to the payment of all amounts owing to each Collateral Agent (in its capacity as such) pursuant to the terms of any Secured Credit Document, (ii) SECOND, subject to Section 1.03, to the payment in full of the Equal Priority Obligations of each Series on a ratable basis, with such Proceeds to be applied to the Equal Priority Obligations of a given Series in accordance with the terms of the Secured Credit Documents applicable to such Series and (iii) THIRD, after the Discharge of Equal Priority Obligations, to the Borrower and the other Grantors or their successors or assigns, as their interests may appear, or to whomever may be lawfully entitled to receive the same pursuant to any Junior Priority Intercreditor Agreement then in effect, or otherwise, or as a court of competent jurisdiction may direct. Notwithstanding the foregoing, with respect to any Shared Collateral for which a third party (other than an Equal Priority Secured Party) has a lien or security interest that is junior in priority to the security interest of any Series of Equal Priority Obligations, after giving effect to any Junior Priority Intercreditor Agreement then in effect, but senior (as determined by appropriate legal proceedings in the case of any dispute) to the security interest of any other Series of Equal Priority Obligations (such third party an "**Intervening Creditor**"), the value of any Shared Collateral or Proceeds that are allocated to such Intervening Creditor shall be deducted on a ratable basis solely from the Shared Collateral or Proceeds to be distributed in respect of the Series of Equal Priority Obligations with respect to which such Impairment exists. If, despite the provisions of this Section 2.01(a), any Equal Priority Secured Party shall receive any payment or other recovery in excess of its portion of payments on account of the Equal Priority Obligations to which it is then entitled in accordance with this Section 2.01(a), such Equal Priority Secured Party shall hold such payment or recovery in trust for the benefit of all Equal Priority Secured Parties for distribution in accordance with this Section 2.01(a).

(b) Notwithstanding the date, time, method, manner or order of grant, attachment or perfection of any Liens securing any Series of Equal Priority Obligations granted on the Shared Collateral and notwithstanding any provision of the Uniform Commercial Code of any jurisdiction, or any other applicable law or the Secured Credit Documents or any defect or deficiencies in the Liens securing the Equal Priority Obligations of any Series or any other circumstance whatsoever (but, in each case, subject to Section 1.03), each Equal Priority Secured Party hereby agrees that (i) the Liens securing each Series of Equal Priority Obligations on any Shared Collateral shall be of equal priority and (ii) the benefits and proceeds of the Shared Collateral shall be shared among the Equal Priority Secured Parties as provided herein.

SECTION 2.02. Actions with Respect to Shared Collateral; Prohibition on Contesting Liens.

(a) With respect to any Shared Collateral, (i) only the Controlling Collateral Agent shall act or refrain from acting with respect to the Shared Collateral (including with respect to any intercreditor agreement with respect to any Shared Collateral) and (ii) no Non-Controlling Collateral Agent or other Non-Controlling Secured Party shall, or shall instruct the Controlling

Collateral Agent to, commence any judicial or nonjudicial foreclosure proceedings with respect to, seek to have a trustee, receiver, liquidator or similar official appointed for or over, attempt any action to take possession of, exercise any right, remedy or power with respect to, or otherwise take any action to enforce its security interest in or realize upon, or take any other action available to it in respect of, any Shared Collateral (including with respect to any intercreditor agreement with respect to any Shared Collateral), whether under any Equal Priority Security Document, applicable law or otherwise, it being agreed that only the Controlling Collateral Agent shall be entitled to take any such actions or exercise any such remedies with respect to Shared Collateral; provided that, notwithstanding the foregoing, (i) in any Bankruptcy Case, any Collateral Agent or any other Equal Priority Secured Party may file a proof of claim or statement of interest with respect to the Equal Priority Obligations owed to the Equal Priority Secured Parties; (ii) any Collateral Agent or any other Equal Priority Secured Party may take any action to preserve or protect the validity and enforceability of the Liens granted in favor of the Equal Priority Secured Parties; provided that no such action is, or could reasonably be expected to be, (A) adverse to the Liens granted in favor of the Controlling Secured Parties or the rights of the Controlling Collateral Agent or any other Controlling Secured Parties to exercise remedies in respect thereof or (B) otherwise inconsistent with the terms of this Agreement; and (iii) any Collateral Agent or any other Equal Priority Secured Party may file any responsive or defensive pleadings in opposition to any motion, claim, adversary proceeding or other pleading made by any Person objecting to or otherwise seeking the disallowance of the claims of such Equal Priority Secured Party, including any claims secured by the Shared Collateral, in each case, to the extent not inconsistent with the terms of this Agreement. Notwithstanding the equal priority of the Liens, the Controlling Collateral Agent may deal with the Shared Collateral as if such Controlling Collateral Agent had a senior Lien on such Collateral. No Non-Controlling Collateral Agent or Non-Controlling Secured Party will, or will have the right to, contest, protest or object to any foreclosure proceeding or action brought by the Controlling Collateral Agent or any Controlling Secured Party or any other exercise by the Controlling Collateral Agent or any Controlling Secured Party of any rights and remedies relating to the Shared Collateral. The foregoing shall not be construed to limit the rights and priorities of any Equal Priority Secured Party or Collateral Agent with respect to any Collateral not constituting Shared Collateral.

(b) Each Collateral Agent and the Equal Priority Secured Parties for which it is acting hereunder agree to be bound by the provisions of this Agreement.

(c) Each of the Equal Priority Secured Parties agrees that it will not (and hereby waives any right to) contest or support any other Person in contesting, in any proceeding (including any Insolvency or Liquidation Proceeding), the perfection, priority, validity, attachment or enforceability of a Lien held by or on behalf of any of the Equal Priority Secured Parties in all or any part of the Shared Collateral, or the provisions of this Agreement; provided that nothing in this Agreement shall be construed to prevent or impair the rights of any Collateral Agent or any other Equal Priority Secured Party to enforce this Agreement.

(d) Notwithstanding anything in this Agreement or any other Secured Credit Documents to the contrary, collateral consisting of cash and deposit account balances pledged to secure Senior Credit Facilities Obligations consisting of reimbursement obligations in respect of Letters of Credit or otherwise held by the Senior Credit Facilities Collateral Agent pursuant to Section 2.05 of the Senior Credit Agreement (or any equivalent successor provision) shall be applied as specified in the Senior Credit Agreement and will not constitute Shared Collateral.

SECTION 2.03. No Interference; Payment Over.

(a) Each Equal Priority Secured Party agrees that (i) it will not challenge, or support any other Person in challenging, in any proceeding the validity or enforceability of any Equal Priority Obligations of any Series or any Equal Priority Security Document or the validity, attachment, perfection or priority of any Lien under any Equal Priority Security Document or the validity or enforceability of the priorities, rights or duties established by this Agreement, (ii) it will not take or cause to be taken any action the purpose or intent of which is, or could be, to interfere, hinder or delay, in any manner, whether by judicial proceedings or otherwise, any sale, transfer or other disposition of the Shared Collateral by the Controlling Collateral Agent, (iii) it will not institute in any Bankruptcy Case or other proceeding any claim against the Controlling Collateral Agent or any other Equal Priority Secured Party seeking damages from or other relief by way of specific performance, instructions or otherwise with respect to any Shared Collateral, and none of the Controlling Collateral Agent or any other Equal Priority Secured Party shall be liable for any action taken or omitted to be taken by the Controlling Collateral Agent or other Equal Priority Secured Party with respect to any Shared Collateral in accordance with the provisions of this Agreement, (iv) it will not seek, and hereby waives any right, to have any Shared Collateral or any part thereof marshaled upon any foreclosure or other disposition of such Collateral and (v) it will not attempt, directly or indirectly, whether by judicial proceedings or otherwise, to challenge the enforceability of any provision of this Agreement; provided that nothing in this Agreement shall be construed to prevent or impair the rights of any Collateral Agent or any other Equal Priority Secured Party to enforce this Agreement.

(b) Each Equal Priority Secured Party hereby agrees that if it shall obtain possession of any Shared Collateral or shall realize any proceeds or payment in respect of any such Shared Collateral, pursuant to any Equal Priority Security Document or by the exercise of any rights available to it under applicable law or in any Bankruptcy Case or Insolvency or Liquidation Proceeding or through any other exercise of remedies (including pursuant to any intercreditor agreement), at any time prior to the Discharge of Equal Priority Obligations, then it shall hold such Shared Collateral, proceeds or payment in trust for the other Equal Priority Secured Parties that have a security interest in such Shared Collateral and promptly transfer such Shared Collateral, Proceeds or payment, as the case may be, to the Controlling Collateral Agent to be distributed in accordance with the provisions of Section 2.01 hereof.

SECTION 2.04. Automatic Release of Liens; Amendments to Equal Priority Security Documents.

(a) If at any time the Controlling Collateral Agent forecloses upon or otherwise exercises remedies with respect to any Shared Collateral resulting in a sale or disposition thereof, then (whether or not any Insolvency or Liquidation Proceeding is pending at the time) the Liens in favor of each Collateral Agent for the benefit of each Series of Equal Priority Secured Parties upon such Shared Collateral will automatically be released and discharged; provided that any proceeds of any Shared Collateral realized therefrom shall be applied pursuant to Section 2.01 hereof.

(b) Each Collateral Agent agrees to execute and deliver (at the sole cost and expense of the Grantors) all such authorizations and other instruments (in form and substance reasonably satisfactory to the parties executing such instruments) as shall reasonably be requested by the Controlling Collateral Agent to evidence and confirm any release of Shared Collateral provided for in this Section.

(c) Each Equal Priority Secured Party in respect of a Series agrees that each Collateral Agent in respect of any other Series may enter into any amendment to any Equal Priority Security Document that does not violate this Agreement.

SECTION 2.05. Certain Agreements with Respect to Bankruptcy or Insolvency Proceedings.

(a) This Agreement shall continue in full force and effect notwithstanding the commencement of any proceeding under the Bankruptcy Code or any other Federal, state or foreign bankruptcy, insolvency, receivership or similar law by or against the Borrower or any of its Subsidiaries.

(b) If the Borrower and/or any other Grantor shall become subject to a case (a "**Bankruptcy Case**") under the Bankruptcy Code and shall, as debtor(s)-in-possession, move for approval of financing ("**DIP Financing**") to be provided by one or more lenders (the "**DIP Lenders**") under Section 364 of the Bankruptcy Code or any equivalent provision of any other applicable Bankruptcy Law or the use of cash collateral under Section 363 of the Bankruptcy Code or any equivalent provision of any other applicable Bankruptcy Law, each Equal Priority Secured Party agrees that it will raise no objection to any such financing or to the Liens on the Shared Collateral securing the same ("**DIP Financing Liens**"), or to any use of cash collateral that constitutes Shared Collateral, unless the Controlling Collateral Agent or any Controlling Secured Party with respect to such Shared Collateral shall then oppose or object to such DIP Financing or such DIP Financing Liens or use of cash collateral (and (i) to the extent that such DIP Financing Liens are senior to the Liens on any such Shared Collateral for the benefit of the Controlling Secured Parties, each Non-Controlling Secured Party will subordinate its Liens with respect to such Shared Collateral on the same terms as the Liens of the Controlling Secured Parties (other than any Liens of any Equal Priority Secured Parties constituting DIP Financing Liens) are subordinated thereto, and (ii) to the extent that such DIP Financing Liens rank equal in priority with the Liens on any such Shared Collateral granted to secure the Equal Priority Obligations of the Controlling Secured Parties, each Non-Controlling Secured Party will confirm the priorities with respect to such Shared Collateral as set forth herein), in each case so long as (A) the Equal Priority Secured Parties of each Series retain the benefit of their security interests on all such Shared Collateral pledged to the DIP Lenders, including proceeds thereof arising after the commencement of such proceeding, with the same priority relative to each other series of Equal Priority Secured Parties (other than any Liens of the Equal Priority Secured Parties constituting DIP Financing Liens) as existed prior to the commencement of the Bankruptcy Case, (B) the Equal Priority Secured Parties of each Series are granted security interests on any additional collateral pledged to any Equal Priority Secured Parties as adequate protection or otherwise in connection with such DIP Financing or use of cash collateral, with the same priority relative to each other series of Equal Priority Secured Parties as set forth in this Agreement, (C) if any amount of such DIP Financing or cash collateral is applied to repay any of the Equal Priority Obligations, such

amount is applied pursuant to Section 2.01 of this Agreement, and (D) if any Equal Priority Secured Parties are granted adequate protection with respect to Equal Priority Obligations subject hereto, including in the form of periodic payments, in connection with such DIP Financing or use of cash collateral, the proceeds of such adequate protection are applied pursuant to Section 2.01 of this Agreement; provided that the Equal Priority Secured Parties of each Series shall have a right to object to the grant of a security interest to secure the DIP Financing over any Collateral subject to security interests in favor of the Equal Priority Secured Parties of such Series or its Collateral Agent that do not constitute Shared Collateral; and provided, further, that the Equal Priority Secured Parties receiving adequate protection shall not object to any other Equal Priority Secured Party receiving adequate protection comparable to any adequate protection granted to such Equal Priority Secured Parties in connection with a DIP Financing or use of cash collateral.

(c) For the avoidance of doubt, nothing in this Section 2.05 shall prevent an Equal Priority Secured Party from acting as a provider of DIP Financing to the Grantor(s) in an Insolvency or Liquidation Proceeding. If an Equal Priority Secured Party is also a DIP Lender, it shall be entitled to seek DIP Financing Liens in such capacity to secure such DIP Financing in accordance with the Bankruptcy Code.

SECTION 2.06. Reinstatement. In the event that any of the Equal Priority Obligations shall be paid in full and such payment or any part thereof shall subsequently, for whatever reason (including an order or judgment for disgorgement of a preference under the Bankruptcy Code, or any similar law, or the settlement of any claim in respect thereof), be required to be returned or repaid, the terms and conditions of this Article II shall be fully applicable thereto until all such Equal Priority Obligations shall again have been paid in full in cash.

SECTION 2.07. Insurance. As between the Equal Priority Secured Parties, the Controlling Collateral Agent shall have the right to adjust or settle any insurance policy or claim covering or constituting Shared Collateral in the event of any loss thereunder and to approve any award granted in any condemnation or similar proceeding affecting the Shared Collateral.

SECTION 2.08. Refinancings. The Equal Priority Obligations of any Series may be Refinanced, in whole or in part, in each case, without notice to, or the consent of any Equal Priority Secured Party of any other Series (except to the extent a consent is otherwise required to permit the Refinancing transaction under any Secured Credit Document in respect of such Series), all without affecting the priorities provided for herein or the other provisions hereof; provided that the Collateral Agent of the holders of any such Refinancing indebtedness shall have executed a Joinder Agreement on behalf of the holders of such Refinancing indebtedness; provided further that in the event any such Refinancing transaction results in the aggregate principal amount of the applicable Series of Equal Priority Obligations then outstanding being increased and such increased principal amount is not permitted by any of the then extant Secured Credit Documents or Equal Priority Security Documents at the time of the incurrence thereof, then such increased principal amount (solely to the extent of such increase) shall not constitute "Equal Priority Obligations" for purposes of this Agreement.

SECTION 2.09. Possessory Collateral Agent as Gratuitous Bailee for Perfection.

(a) The Controlling Collateral Agent agrees to hold any Shared Collateral constituting Possessory Collateral that is part of the Shared Collateral in its possession or control (or in the possession or control of its agents or bailees) as gratuitous bailee for the benefit of each other Equal Priority Secured Party and any assignee solely for the purpose of perfecting the security interest granted in such Possessory Collateral, if any, pursuant to the applicable Equal Priority Security Documents, in each case, subject to the terms and conditions of this Section 2.09; provided that at any time after the Discharge of the Series of Equal Priority Obligations for which the Controlling Collateral Agent is acting, the Controlling Collateral Agent shall (at the sole cost and expense of the Grantors), promptly deliver all Possessory Collateral to the new Controlling Collateral Agent (after giving effect to the Discharge of such Series of Equal Priority Obligations) together with any necessary endorsements reasonably requested by such new Controlling Collateral Agent (or make such other arrangements as shall be reasonably requested by such new Controlling Collateral Agent to allow such new Controlling Collateral Agent to obtain control of such Possessory Collateral). Pending delivery to the Controlling Collateral Agent, each other Collateral Agent agrees to hold any Shared Collateral constituting Possessory Collateral, from time to time in its possession, as gratuitous bailee for the benefit of each other Equal Priority Secured Party and any assignee, solely for the purpose of perfecting the security interest granted in such Possessory Collateral, if any, pursuant to the applicable Equal Priority Security Documents, in each case, subject to the terms and conditions of this Section 2.09.

(b) The duties and responsibilities of the Controlling Collateral Agent and each other Collateral Agent under this Section 2.09 shall be limited solely to holding any Shared Collateral constituting Possessory Collateral as gratuitous bailee for the benefit of each other Equal Priority Secured Party for purposes of perfecting the Lien held by such Equal Priority Secured Parties therein.

ARTICLE III

Existence and Amounts of Liens and Obligations

SECTION 3.01. Determinations with Respect to Amounts of Liens and Obligations. Whenever any Collateral Agent shall be required, in connection with the exercise of its rights or the performance of its obligations hereunder, to determine the existence or amount of any Equal Priority Obligations of any Series, or the Shared Collateral subject to any Lien securing the Equal Priority Obligations of any Series, it may request that such information be furnished to it in writing by each other Collateral Agent and shall be entitled to make such determination on the basis of the information so furnished; provided, however, that (a) any information provided by any Collateral Agent as to the Shared Collateral subject to any Lien securing the Equal Priority Obligations of any Series may be provided to the knowledge of such Collateral Agent and (b) if any Collateral Agent shall fail or refuse reasonably promptly to provide the requested information, the requesting Collateral Agent shall be entitled to make any such determination by such method as it may, in the exercise of its good faith judgment, determine, including by reliance upon a certificate of the Borrower. Each Collateral Agent may rely conclusively, and shall be fully protected in so relying, on any determination made by it in accordance with the provisions of the preceding sentence (or as otherwise directed by a court of competent jurisdiction) and shall have no liability to any Grantor, any Equal Priority Secured Party or any other Person as a result of such determination.

ARTICLE IV

The Controlling Collateral Agent

SECTION 4.01. Appointment and Authority.

(a) Each of the Equal Priority Secured Parties hereby irrevocably appoints and authorizes the Controlling Collateral Agent to take such actions on its behalf and to exercise such powers as are delegated to the Controlling Collateral Agent by the terms hereof, together with such powers and discretion as are reasonably incidental thereto. Each of the Equal Priority Secured Parties also authorizes the Controlling Collateral Agent, at the request of the Borrower, to, if applicable, execute and deliver a Junior Priority Intercreditor Agreement in the capacity as "Designated Senior Representative" or the equivalent agent however referred to for the Equal Priority Secured Parties under such agreement (as applicable, the "**Senior Collateral Agent**") and authorizes the Controlling Collateral Agent, in accordance with the provisions of this Agreement, to take such actions on its behalf and to exercise such powers as are delegated to, or otherwise given to, such "Designated Senior Representative" or equivalent agent by the terms of any Junior Priority Intercreditor Agreement together with such powers and discretion as are reasonably incidental thereto and authorizes the Controlling Collateral Agent, in accordance with the provisions of this Agreement, to take such actions on its behalf and to exercise such powers as are delegated to it hereunder and thereunder. In this connection, the Controlling Collateral Agent and any co-agents, sub-agents and attorneys-in-fact appointed by the Controlling Collateral Agent pursuant to the applicable Secured Credit Documents for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under any of the Equal Priority Security Documents, or for exercising any rights and remedies thereunder or under any Junior Priority Intercreditor Agreement at the direction of the Controlling Collateral Agent, shall be entitled to the benefits of all provisions of this Article IV, Article VIII of the Senior Credit Agreement, Articles Six and Fourteen of the Indenture, Article 9 of the Notes Security Agreement and the equivalent provision of any Additional Equal Priority Document (as though such co-agents, sub-agents and attorneys-in-fact were the "Collateral Agent" named therein) as if set forth in full herein with respect thereto. Without limiting the foregoing, each of the Equal Priority Secured Parties, and each Collateral Agent, hereby agrees, at the sole cost and expense of the Borrower, to provide such cooperation and assistance as may be reasonably requested by the Controlling Collateral Agent to facilitate and effect actions taken or intended to be taken by the Controlling Collateral Agent pursuant to this Article IV, such cooperation to include execution and delivery of notices, instruments and other documents as are reasonably deemed necessary by the Controlling Collateral Agent to effect such actions (and in form and substance reasonably satisfactory to the parties executing such documents), and joining in any action, motion or proceeding initiated by the Controlling Collateral Agent for such purposes.

(b) Each Non-Controlling Secured Party acknowledges and agrees that the Controlling Collateral Agent shall be entitled, for the benefit of the Equal Priority Secured Parties, to sell, transfer or otherwise dispose of or deal with any Shared Collateral as provided herein and in the Equal Priority Security Documents, without regard to any rights to which the Non-Controlling Secured Parties would otherwise be entitled pursuant to the Equal Priority Security Documents (in their respective capacities as such). Without limiting the foregoing, each Non-Controlling Secured Party agrees that none of the Controlling Collateral Agent or any other Equal

Priority Secured Party shall have any duty or obligation first to marshal or realize upon any type of Shared Collateral (or any other Collateral securing any of the Equal Priority Obligations), or to sell, dispose of or otherwise liquidate all or any portion of such Shared Collateral (or any other Collateral securing any Equal Priority Obligations), in any manner that would maximize the return to the Non-Controlling Secured Parties, notwithstanding that the order and timing of any such realization, sale, disposition or liquidation may affect the amount of proceeds actually received by the Non-Controlling Secured Parties from such realization, sale, disposition or liquidation. Each of the Equal Priority Secured Parties waives any claim it may now or hereafter have against the Controlling Collateral Agent or the Collateral Agent for any other Series of Equal Priority Obligations or any other Equal Priority Secured Party of any other Series arising out of (i) any actions that do not violate this Agreement that any Collateral Agent or any Equal Priority Secured Party takes or omits to take (including actions with respect to the creation, perfection or continuation of Liens on any Collateral, actions with respect to the foreclosure upon, sale, release or depreciation of, or failure to realize upon, any of the Collateral and actions with respect to the collection of any claim for all or any part of the Equal Priority Obligations from any account debtor, guarantor or any other party) in accordance with the Equal Priority Security Documents or any other agreement related thereto or to the collection of the Equal Priority Obligations or the valuation, use, protection or release of any security for the Equal Priority Obligations, (ii) any election by any Collateral Agent or any holders of Equal Priority Obligations, in any proceeding instituted under the Bankruptcy Code, of the application of Section 1111(b) of the Bankruptcy Code or (iii) subject to Section 2.05, any borrowing by, or grant of a security interest or administrative expense priority under Section 364 of the Bankruptcy Code or any equivalent provision of any other Bankruptcy Law by, any Grantor or any of its Subsidiaries, as debtor-in-possession.

SECTION 4.02. Rights as an Equal Priority Secured Party.

(a) The Person serving as the Controlling Collateral Agent hereunder shall have the same rights and powers in its capacity as an Equal Priority Secured Party under any Series of Equal Priority Obligations that it holds as any other Equal Priority Secured Party of such Series and may exercise the same as though it were not the Controlling Collateral Agent and the term "Equal Priority Secured Party" or "Equal Priority Secured Parties" or (as applicable) "Senior Credit Facilities Secured Party," "Senior Credit Facilities Secured Parties," "Indenture Secured Party," "Indenture Secured Parties," "Additional Equal Priority Secured Party" or "Additional Equal Priority Secured Parties" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Controlling Collateral Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Grantors or any Subsidiary or other Affiliate thereof as if such Person were not the Controlling Collateral Agent hereunder and without any duty to account therefor to any other Equal Priority Secured Party.

SECTION 4.03. Exculpatory Provisions. The Controlling Collateral Agent shall not have any duties or obligations except those expressly set forth herein. Without limiting the generality of the foregoing, the Controlling Collateral Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether an Event of Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby; provided that the Controlling Collateral Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Controlling Collateral Agent to liability or that is contrary to this Agreement or applicable law;

(c) shall not, except as expressly set forth herein, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to a Grantor or any of its Affiliates that is communicated to or obtained by the Person serving as the Controlling Collateral Agent or any of its Affiliates in any capacity;

(d) shall not be liable for any action taken or not taken by it (i) in the absence of its own gross negligence or willful misconduct or (ii) in reliance on a certificate of an authorized officer of the Borrower stating that such action is permitted by the terms of this Agreement. The Controlling Collateral Agent shall be deemed not to have knowledge of any Event of Default under any Series of Equal Priority Obligations unless and until written notice describing such Event of Default and referencing the applicable agreement is given to the Controlling Collateral Agent;

(e) shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Equal Priority Security Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Equal Priority Security Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Equal Priority Security Documents, (v) the value or the sufficiency of any Collateral for any Series of Equal Priority Obligations, or (vi) the satisfaction of any condition set forth in any Secured Credit Document, other than to confirm receipt of items expressly required to be delivered to the Controlling Collateral Agent; and

(f) need not segregate money held hereunder from other funds except to the extent required by law. The Controlling Collateral Agent shall be under no liability for interest on any money received by it hereunder except if and to the extent it may (at its option and in its discretion) otherwise agree in writing.

SECTION 4.04. Collateral and Guaranty Matters. Each of the Equal Priority Secured Parties irrevocably authorizes the applicable Collateral Agent to release any Lien on any property granted to or held by the Collateral Agent under any Equal Priority Security Document in accordance with Section 2.04 or upon receipt of a written request from the Borrower stating that the releases of such Lien is permitted by the terms of each then extant Secured Credit Document.

ARTICLE V

Miscellaneous

SECTION 5.01. Notices. All notices and other communications provided for herein (including, but not limited to, all the directions and instructions to be provided to the Controlling Collateral Agent herein by the Equal Priority Secured Parties) shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail, emailed or sent by fax, as follows:

(a) if to the Borrower or any Grantor, to the Borrower, at its address at: WW International, Inc., 675 Avenue of the Americas, 6th Floor, New York, NY 10010, Attention: General Counsel, Email: general.counsel@weightwatchers.com;

(b) if to the Senior Credit Facilities Collateral Agent, to it at Bank of America, N.A., Loan, Lease and Trade Operations, Mail Code: CA5-705-04-09, 555 California Street, 4th Floor, San Francisco, CA 94104, Attention: Carol Alfonso, Email: carol.alfonso@bofa.com;

(c) if to the Notes Collateral Agent, to it at The Bank of New York Mellon, 500 Ross Street, 12th Floor, Pittsburgh Pennsylvania 15262, Attention: Mindy Wrzesinski, Fax: 412-234-8377, Email: melinda.m.wrzesinski@bnymellon.com; and

(d) if to any other Collateral Agent, to it at the address set forth in the applicable Joinder Agreement.

Any party hereto may change its address, fax number or email address for notices and other communications hereunder by notice to the other parties hereto. Unless otherwise specifically provided herein, any notice or other communication herein required or permitted to be given shall be in writing and, may be personally served, telecopied, electronically mailed or sent by courier service or U.S. mail and shall be deemed to have been given when delivered in person or by courier service, upon receipt of a fax or electronic mail or upon receipt via U.S. mail (registered or certified, with postage prepaid and properly addressed). For the purposes hereof, the addresses of the parties hereto shall be as set forth above or, as to each party, at such other address as may be designated by such party in a written notice to all of the other parties. As agreed to in writing among the Controlling Collateral Agent and each other Collateral Agent from time to time, notices and other communications may also be delivered by e-mail to the e-mail address of a representative of the applicable person provided from time to time by such person.

The Notes Collateral Agent shall have the right to accept and act upon instructions, including funds transfer instructions ("**Instructions**"), given pursuant to this Agreement and delivered using Electronic Means; provided, however, that the Borrower, any other Grantor, the Senior Credit Facilities Collateral Agent or any other Collateral Agent or Senior Class Debt Representative, as applicable, shall provide to the Notes Collateral Agent an incumbency certificate listing officers or other Persons with the authority to provide such Instructions ("**Authorized Officers**") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Borrower, such other Grantor, the Senior Credit Facilities Collateral Agent or

any other Collateral Agent or Senior Class Debt Representative, as applicable, whenever a Person is to be added or deleted from the listing. If the Borrower, any other Grantor, the Senior Credit Facilities Collateral Agent or any other Collateral Agent or Senior Class Debt Representative, as applicable, elects to give the Notes Collateral Agent Instructions using Electronic Means and the Notes Collateral Agent in its discretion elects to act upon such Instructions, the Notes Collateral Agent's understanding of such Instructions shall be deemed controlling. The Borrower, each other Grantor, the Senior Credit Facilities Collateral Agent or any other Collateral Agent or Senior Class Debt Representative understand and agree that the Notes Collateral Agent cannot determine the identity of the actual sender of such Instructions and that the Notes Collateral Agent shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Notes Collateral Agent by any party have been sent by such Authorized Officer. The Borrower, each other Grantor, the Senior Credit Facilities Collateral Agent or any other Collateral Agent or Senior Class Debt Representative, as applicable, shall be responsible for ensuring that only an Authorized Officer thereof transmit such Instructions to the Notes Collateral Agent. Each of the Borrower, any other Grantor, the Senior Credit Facilities Collateral Agent and any other Collateral Agent or Senior Class Debt Representative is solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt thereof by the Borrower, such other Grantor, the Senior Credit Facilities Collateral Agent or such other Collateral Agent or Senior Class Debt Representative, as applicable. The Notes Collateral Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Notes Collateral Agent's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. Each of the Borrower, each other Grantor, the Senior Credit Facilities Collateral Agent and any other Collateral Agent or Senior Class Debt Representative agrees: (a) to assume all risks arising out of its use of Electronic Means to submit Instructions to the Notes Collateral Agent, including, without limitation, the risk of the Notes Collateral Agent acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (b) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Notes Collateral Agent and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Borrower, such other Grantor, the Senior Credit Facilities Collateral Agent or such other Collateral Agent or Senior Class Debt Representative, as applicable; and (c) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances.

SECTION 5.02. Waivers; Amendment; Joinder Agreements.

(a) No failure or delay on the part of any party hereto in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the parties hereto are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by any party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice or demand on any party hereto in any case shall entitle such party to any other or further notice or demand in similar or other circumstances.

(b) Neither this Agreement nor any provision hereof may be terminated, waived, amended or modified (other than pursuant to any Joinder Agreement) except pursuant to an agreement or agreements in writing entered into by each Collateral Agent (and with respect to any such termination, waiver, amendment or modification which by the terms of this Agreement requires the Borrower's consent or which increases the obligations or reduces the rights of the Borrower or any other Grantor, with the consent of the Borrower).

(c) Notwithstanding the foregoing, without the consent of any Equal Priority Secured Party, any Additional Agent may become a party hereto by execution and delivery of a Joinder Agreement in accordance with Section 5.13 of this Agreement and upon such execution and delivery, such Additional Agent and the Additional Equal Priority Secured Parties and Additional Equal Priority Obligations of the Series for which such Additional Agent is acting shall be subject to the terms hereof.

(d) Notwithstanding the foregoing, without the consent of any other Collateral Agent or Equal Priority Secured Party, the Controlling Collateral Agent may effect amendments and modifications to this Agreement to the extent necessary to reflect any incurrence of any Additional Equal Priority Obligations that is permitted by the terms of each then extant Secured Credit Document.

SECTION 5.03. Parties in Interest. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, as well as the other Equal Priority Secured Parties, all of whom are intended to be bound by, and to be third party beneficiaries of, this Agreement.

SECTION 5.04. Survival of Agreement. All covenants, agreements, representations and warranties made by any party in this Agreement shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement.

SECTION 5.05. Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or by email as a ".pdf" or ".tif" attachment or any electronic signature complying with the U.S. Federal ESIGN Act of 2000 or the New York Electronic Signature and Records Act or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes to the fullest extent permitted by applicable law.

SECTION 5.06. Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction. The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

SECTION 5.07. Authorization. By its signature, each Person executing this Agreement on behalf of a party hereto represents and warrants to the other parties hereto that it is duly authorized to execute this Agreement. The Senior Credit Facilities Collateral Agent represents and warrants that this Agreement is binding upon the Senior Credit Facilities Secured Parties. The Notes Collateral Agent represents and warrants that this Agreement is binding upon the Indenture Secured Parties.

SECTION 5.08. Submission to Jurisdiction Waivers; Consent to Service of Process. Each Collateral Agent, on behalf of itself and the Equal Priority Secured Parties of the Series for whom it is acting, irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement, or for recognition and enforcement of any judgment in respect thereof, to the exclusive jurisdiction of the courts of the State of New York sitting in New York County, the courts of the United States of America for the Southern District of New York, and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient forum and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such Person (or its Collateral Agent) at the address referred to in Section 5.01;

(d) agrees that nothing herein shall affect the right of any other party hereto (or any Equal Priority Secured Party) to effect service of process in any other manner permitted by law or shall limit the right of any party hereto (or any Equal Priority Secured Party) to sue in any other jurisdiction; and

(e) 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 5.08 any special, exemplary, punitive or consequential damages (including loss of profits).

SECTION 5.09. **GOVERNING LAW; WAIVER OF JURY TRIAL**.

(A) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO THE PRINCIPLES OF CONFLICTS OF LAWS, EXCEPT AS REQUIRED BY MANDATORY PROVISIONS OF LAW.

(B) EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT AND FOR ANY COUNTERCLAIM THEREIN.

SECTION 5.10. Headings. Article, Section and Annex headings used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

SECTION 5.11. Conflicts. In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of any of the other Equal Priority Security Documents or Additional Equal Priority Documents, the provisions of this Agreement shall control.

SECTION 5.12. Provisions Solely to Define Relative Rights. The provisions of this Agreement are and are intended solely for the purpose of defining the relative rights of the Equal Priority Secured Parties in relation to one another. None of the Borrower, any other Grantor or any other creditor thereof shall have any rights or obligations hereunder, except as expressly provided in this Agreement (provided that nothing in this Agreement (other than Section 2.04, 2.05 or 2.09 and subject to Section 5.11) is intended to or will amend, waive or otherwise modify the provisions of the Senior Credit Agreement, the Indenture or any Additional Equal Priority Documents), and none of the Borrower or any other Grantor may rely on the terms hereof (other than Section 2.04, 2.05 or 2.09). Nothing in this Agreement is intended to or shall impair the obligations of any Grantor, which are absolute and unconditional, to pay the Equal Priority Obligations as and when the same shall become due and payable in accordance with their terms.

SECTION 5.13. Additional Equal Priority Obligations. The Borrower may incur obligations that will constitute Additional Equal Priority Obligations hereunder only if such obligations are permitted to be so incurred and treated as such hereunder by the terms of each then extant Secured Credit Document and the other requirements of this Section 5.13 are satisfied. Any such additional class or series of Additional Equal Priority Obligations (the "**Senior Class Debt**") may be secured by a Lien and may be guaranteed by the Grantors on a *pari passu* basis with the Liens and guarantees in favor of the other Series of Equal Priority Obligations, if and subject to the condition that the Collateral Agent of any such Senior Class Debt (each, a "**Senior Class Debt Representative**"), acting on behalf of the holders of such Senior Class Debt (such Collateral Agent and holders in respect of any Senior Class Debt being referred to as the "**Senior Class Debt Parties**"), becomes a party to this Agreement by satisfying the conditions set forth in clauses (i) through (iv) of the immediately succeeding paragraph.

In order for a Senior Class Debt Representative to become a party to this Agreement,

(i) such Senior Class Debt Representative, the Controlling Collateral Agent and each Grantor shall have executed and delivered an instrument substantially in the form of Annex II (with such changes as may be reasonably approved by the Controlling Collateral Agent and such Senior Class Debt Representative) pursuant to which such Senior Class Debt Representative becomes a Collateral Agent and Additional Agent hereunder, and the Senior Class Debt in respect of which such Senior Class Debt Representative is the Collateral Agent and the related Senior Class Debt Parties become subject hereto and bound hereby;

(ii) the Borrower shall have delivered to the Controlling Collateral Agent true and complete copies of each of the Additional Equal Priority Documents relating to such Senior Class Debt, certified as being true and correct by a Responsible Officer of the Borrower;

(iii) the Borrower shall have delivered to the Controlling Collateral Agent an Officer's Certificate stating that such Additional Equal Priority Obligations to be incurred are permitted by each then extant Secured Credit Document, or to the extent a consent is otherwise required to permit the incurrence of such Additional Equal Priority Obligations under any such Secured Credit Document, such requisite consent has been obtained; and

(iv) the Additional Equal Priority Documents, as applicable, relating to such Senior Class Debt shall provide, in a manner reasonably satisfactory to the Controlling Collateral Agent, that each Senior Class Debt Party with respect to such Senior Class Debt will be subject to and bound by the provisions of this Agreement in its capacity as a holder of such Senior Class Debt.

SECTION 5.14. Integration. This Agreement together with the other Secured Credit Documents and the Equal Priority Security Documents represents the entire agreement of each of the Grantors and the Equal Priority Secured Parties with respect to the subject matter hereof and there are no promises, undertakings, representations or warranties by any Grantor, any Collateral Agent or any other Equal Priority Secured Party relative to the subject matter hereof not expressly set forth or referred to herein or in the other Secured Credit Documents or the Equal Priority Security Documents.

SECTION 5.15. [Reserved].

SECTION 5.16. Information Concerning Financial Condition of the Borrower and the other Grantors. The Controlling Collateral Agent, the other Collateral Agents and the Secured Parties shall each be responsible for keeping themselves informed of (a) the financial condition of the Borrower and the other Grantors and all endorsers or guarantors of the Equal Priority Obligations and (b) all other circumstances bearing upon the risk of nonpayment of the Equal Priority Obligations. The Controlling Collateral Agent, the other Collateral Agents and the Secured Parties shall have no duty to advise any other party hereunder of information known to it or them regarding such condition or any such circumstances or otherwise. In the event that the Controlling Collateral Agent, any other Collateral Agent or any Secured Party, in its sole discretion, undertakes at any time or from time to time to provide any such information to any other party, it shall be under no obligation to (i) make, and Controlling Collateral Agent, the other Collateral Agents and the Secured Parties shall not make or be deemed to have made, any express or implied representation or warranty, including with respect to the accuracy, completeness, truthfulness or validity of any such information so provided, (ii) provide any additional information or to provide any such information on any subsequent occasion, (iii) undertake any investigation or (iv) disclose any information that, pursuant to accepted or reasonable commercial finance practices, such party wishes to maintain confidential or is otherwise required to maintain confidential.

SECTION 5.17. Additional Grantors. The Borrower agrees that, if any Subsidiary of the Borrower shall become a Grantor after the date hereof, it will promptly cause such Subsidiary to become party hereto by executing and delivering an instrument in the form of Annex III. Upon such execution and delivery, such Subsidiary will become a Grantor hereunder with the same force and effect as if originally named as a Grantor herein. The execution and delivery of such instrument shall not require the consent of any other party hereunder, and will be acknowledged by the Controlling Collateral Agent. The rights and obligations of each Grantor hereunder shall remain in full force and effect notwithstanding the addition of any new Grantor as a party to this Agreement.

SECTION 5.18. Further Assurances. Each Collateral Agent, on behalf of itself and each Equal Priority Secured Party under the applicable Senior Credit Agreement, Indenture or Additional Equal Priority Debt Facility, agrees that it will, at the sole cost and expense of the Borrower, take such further action and shall execute and deliver such additional documents and instruments (in recordable form, if requested and in form and substance reasonably satisfactory to the party executing the same) as the other parties hereto may reasonably request to effectuate the terms of, and the Lien priorities contemplated by, this Agreement.

SECTION 5.19. Senior Credit Facilities Collateral Agent and Notes Collateral Agent. It is understood and agreed that (a) the Senior Credit Facilities Collateral Agent is entering into this Agreement in its capacity as collateral agent under the Senior Credit Agreement and the provisions of the Senior Credit Agreement and the other Loan Documents (as defined in the Senior Credit Agreement), including Article VIII of the Senior Credit Agreement, granting or extending any rights, protections, privileges, indemnities and immunities to the Senior Credit Facilities Collateral Agent in such capacity shall also apply to it as Controlling Collateral Agent hereunder and (b) the Notes Collateral Agent is entering in this Agreement in its capacity as Trustee and Collateral Agent under the Indenture and as Notes Collateral Agent under the Notes Security Agreement and the provisions of the Indenture and the Notes Security Agreement granting or extending any rights, protections, privileges, indemnities and immunities to the Trustee, Collateral Agent or Notes Collateral Agent thereunder shall also apply to the Notes Collateral Agent hereunder.

For the avoidance of doubt, the parties hereto acknowledge that in no event shall the Senior Credit Facilities Collateral Agent or Notes Collateral Agent be responsible or liable for special, indirect, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether any such party has been advised of the likelihood of such loss or damage and regardless of the form of action.

In addition, it is understood and agreed that prior to the Discharge of Senior Credit Facilities Obligations, to the extent that the Senior Credit Facilities Collateral Agent is satisfied with or agrees to any deliveries or documents required to be provided in respect of any matters relating to any Shared Collateral or makes any determination in respect of any matters relating to any Shared Collateral (including, without limitation, extensions of time or waivers for the creation and perfection of security interests in, or the obtaining of title insurance, legal opinions or other

deliverables with respect to, particular assets (including extensions beyond the date hereof or in connection with assets acquired, or Subsidiaries formed or acquired, after the date hereof) and any determination that the cost, burden, difficulty or consequence of obtaining or perfecting a security interest in a particular asset outweighs the benefit of a security interest to the relevant Equal Priority Secured Parties afforded thereby), the Notes Collateral Agent shall be deemed to be satisfied with such deliveries and/or documents and the judgment of the Senior Credit Facilities Collateral Agent in respect of any such matters under the Credit Agreement shall be deemed to be the judgment of the Notes Collateral Agent in respect of such matters under the Indenture and the Security Documents (as defined in the Indenture).

[Signature Page Follows]

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

BANK OF AMERICA, N.A.,
as Senior Credit Facilities Collateral Agent and Controlling Collateral Agent

By: /s/ Carol Alfonso
Name: Carol Alfonso
Title: Assistant Vice President

[Signature Page to Equal Priority Intercreditor Agreement]

THE BANK OF NEW YORK MELLON,
as Notes Collateral Agent

By: /s/ Francine Kincaid
Name: Francine Kincaid
Title: Vice President

[Signature Page to Equal Priority Intercreditor Agreement]

WW INTERNATIONAL, INC.

By: /s/ Amy O'Keefe
Name: Amy O'Keefe
Title: Chief Financial Officer

KURBO, INC.
W HOLDCO, INC.
WW HEALTH SOLUTIONS, INC.
WW NORTH AMERICA HOLDINGS, LLC
WW.COM, LLC

By: /s/ Nicholas P. Hotchkin
Name: Nicholas P. Hotchkin
Title: Vice President and Treasurer

[Signature Page to Equal Priority Intercreditor Agreement]

GRANTORS

WW INTERNATIONAL, INC.
KURBO, INC.
W HOLDCO, INC.
WW HEALTH SOLUTIONS, INC.
WW NORTH AMERICA HOLDINGS, LLC
WW.COM, LLC

ANNEX II

[FORM OF] JOINDER NO. [ ] dated as of [ ], 20[ ] (this "**Joinder**") to the EQUAL PRIORITY INTERCREDITOR AGREEMENT dated as of April 13, 2021 (the "**Equal Priority Intercreditor Agreement**"), among WW International, Inc., a Virginia corporation (the "**Borrower**"), the other Grantors party thereto, Bank of America, N.A., as collateral agent for the Senior Credit Facilities Secured Parties (in such capacity, the "**Senior Credit Facilities Collateral Agent**"), and The Bank of New York Mellon, as collateral agent for the Indenture Secured Parties (in such capacity, the "**Notes Collateral Agent**"), and each Additional Agent from time to time party thereto.

A. Capitalized terms used herein but not otherwise defined herein shall have the meanings assigned to such terms in the Equal Priority Intercreditor Agreement.

B. As a condition to the ability of the Borrower and certain of its Subsidiaries to incur Additional Equal Priority Obligations and to secure such Senior Class Debt (and the guarantee in respect thereof) with the Senior Liens, in each case under and pursuant to the Additional Equal Priority Documents, the Senior Class Debt Representative in respect of such Senior Class Debt is required to become a Collateral Agent under, and such Senior Class Debt and the Senior Class Debt Parties in respect thereof are required to become subject to and bound by, the Equal Priority Intercreditor Agreement. Section 5.13 of the Equal Priority Intercreditor Agreement provides that such Senior Class Debt Representative may become a Collateral Agent under, and such Senior Class Debt and such Senior Class Debt Parties may become subject to and bound by, the Equal Priority Intercreditor Agreement, upon the execution and delivery by the Senior Class Representative of an instrument in the form of this Joinder and the satisfaction of the other conditions set forth in Section 5.13 of the Equal Priority Intercreditor Agreement. The undersigned Senior Class Debt Representative (the "**New Collateral Agent**") is executing this Joinder in accordance with the requirements of the Equal Priority Intercreditor Agreement.

Accordingly, the Controlling Collateral Agent and the New Collateral Agent agree as follows:

SECTION 1. In accordance with Section 5.13 of the Equal Priority Intercreditor Agreement, the New Collateral Agent by its signature below becomes a Collateral Agent and Additional Agent under, and the related Senior Class Debt and Senior Class Debt Parties become subject to and bound by, the Equal Priority Intercreditor Agreement with the same force and effect as if the New Collateral Agent had originally been named therein as a Collateral Agent, and the New Collateral Agent, on behalf of itself and such Senior Class Debt Parties, hereby agrees to all the terms and provisions of the Equal Priority Intercreditor Agreement applicable to it as a Collateral Agent and to the Senior Class Debt Parties that it represents as Additional Equal Priority Secured Parties. Each reference to a "**Collateral Agent**" or an "**Additional Agent**" in the Equal Priority Intercreditor Agreement shall be deemed to include the New Collateral Agent. The Equal Priority Intercreditor Agreement is hereby incorporated herein by reference.

SECTION 2. The New Collateral Agent represents and warrants to the Controlling Collateral Agent and the other Equal Priority Secured Parties that (i) it has full power and authority to enter into this Joinder, in its capacity as [agent] [trustee], (ii) this Joinder has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms of such Agreement and (iii) the Additional Equal Priority Documents relating to such Senior Class Debt provide that, upon the New Collateral Agent's entry into this Agreement, the Senior Class Debt Parties in respect of such Senior Class Debt will be subject to and bound by the provisions of the Equal Priority Intercreditor Agreement as Additional Equal Priority Secured Parties.

SECTION 3. This Joinder may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Joinder shall become effective when the Collateral Agent shall have received a counterpart of this Joinder that bears the signature of the New Collateral Agent. Delivery of an executed counterpart of a signature page of this Joinder by facsimile or by email as a ".pdf" or ".tif" attachment or any electronic signature complying with the U.S. Federal ESIGN Act of 2000 or the New York Electronic Signature and Records Act or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes to the fullest extent permitted by applicable law.

SECTION 4. Except as expressly supplemented hereby, the Equal Priority Intercreditor Agreement shall remain in full force and effect.

SECTION 5. THIS JOINDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

SECTION 6. In case any one or more of the provisions contained in this Joinder should be held invalid, illegal or unenforceable in any respect, no party hereto shall be required to comply with such provision for so long as such provision is held to be invalid, illegal or unenforceable, but the validity, legality and enforceability of the remaining provisions contained herein and in the Equal Priority Intercreditor Agreement shall not in any way be affected or impaired. The parties hereto shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

SECTION 7. All communications and notices hereunder shall be in writing and given as provided in Section 5.01 of the Equal Priority Intercreditor Agreement. All communications and notices hereunder to the New Collateral Agent shall be given to it at the address set forth below its signature hereto.

SECTION 8. The Borrower agrees to reimburse the Controlling Collateral Agent for its reasonable out-of-pocket expenses in connection with this Joinder, including the reasonable fees, other charges and disbursements of counsel for the Controlling Collateral Agent.

IN WITNESS WHEREOF, the New Collateral Agent and the Controlling Collateral Agent have duly executed this Joinder to the Equal Priority Intercreditor Agreement as of the day and year first above written.

[NAME OF NEW COLLATERAL AGENT], as
[•] for the holders of
[•],

By: _____
Name:
Title:

Address for notices:

_____

_____

Attention of: _____

Fax: _____

Acknowledged by:

[_____],
as Controlling Collateral Agent

By: _____
Name:
Title:

WW INTERNATIONAL, INC.

By: _____
Name:
Title:

THE GRANTORS
LISTED ON SCHEDULE I HERETO

By: _____
Name:
Title:

Grantors

[ ]

ANNEX III

[FORM OF] SUPPLEMENT NO. [ ] dated as of [ ] (this "**Supplement**"), to the EQUAL PRIORITY INTERCREDITOR AGREEMENT dated as of April 13, 2021 (the "**Equal Priority Intercreditor Agreement**"), among WW International, Inc., a Virginia corporation (the "**Borrower**"), the other Grantors party thereto, Bank of America, N.A., as collateral agent for the Senior Credit Facilities Secured Parties (in such capacity, the "**Senior Credit Facilities Collateral Agent**"), and The Bank of New York Mellon, as collateral agent for the Indenture Secured Parties (in such capacity, the "**Notes Collateral Agent**"), and each Additional Agent from time to time party thereto.

A Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Equal Priority Intercreditor Agreement.

B. The Grantors have entered into the Equal Priority Intercreditor Agreement. Pursuant to certain Secured Credit Documents, certain newly acquired or organized Subsidiaries of the Borrower are required to enter into the Equal Priority Intercreditor Agreement. Section 5.17 of the Equal Priority Intercreditor Agreement provides that such Subsidiaries may become party to the Equal Priority Intercreditor Agreement by execution and delivery of an instrument in the form of this Supplement. The undersigned Subsidiary (the "**New Grantor**") is executing this Supplement in accordance with the requirements of the Senior Credit Agreement, the Indenture and the Additional Equal Priority Documents.

Accordingly, the Controlling Collateral Agent and the New Grantor agree as follows:

SECTION 1. In accordance with Section 5.17 of the Equal Priority Intercreditor Agreement, the New Grantor by its signature below becomes a Grantor under the Equal Priority Intercreditor Agreement with the same force and effect as if originally named therein as a Grantor, and the New Grantor hereby agrees to all the terms and provisions of the Equal Priority Intercreditor Agreement applicable to it as a Grantor thereunder. Each reference to a "Grantor" in the Equal Priority Intercreditor Agreement shall be deemed to include the New Grantor. The Equal Priority Intercreditor Agreement is hereby incorporated herein by reference.

SECTION 2. The New Grantor represents and warrants to the Controlling Collateral Agent and the other Secured Parties that this Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms.

SECTION 3. This Supplement may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Supplement shall become effective when the Controlling Collateral Agent shall have received a counterpart of this Supplement that bears the signature of the New Grantor. Delivery of an executed counterpart of a signature page of this Supplement by facsimile or by email as a ".pdf" or ".tif" attachment or any electronic signature complying with the U.S. Federal ESIGN Act of 2000 or the New York Electronic Signature and Records Act or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes to the fullest extent permitted by applicable law.

SECTION 4. Except as expressly supplemented hereby, the Equal Priority Intercreditor Agreement shall remain in full force and effect.

SECTION 5. THIS SUPPLEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

SECTION 6. In case any one or more of the provisions contained in this Supplement should be held invalid, illegal or unenforceable in any respect, no party hereto shall be required to comply with such provision for so long as such provision is held to be invalid, illegal or unenforceable, but the validity, legality and enforceability of the remaining provisions contained herein and in the Equal Priority Intercreditor Agreement shall not in any way be affected or impaired. The parties hereto shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

SECTION 7. All communications and notices hereunder shall be in writing and given as provided in Section 5.01 of the Equal Priority Intercreditor Agreement. All communications and notices hereunder to the New Grantor shall be given to it in care of the Borrower as specified in the Equal Priority Intercreditor Agreement.

SECTION 8. The Borrower agrees to reimburse the Controlling Collateral Agent for its reasonable out-of-pocket expenses in connection with this Supplement, including the reasonable fees, other charges and disbursements of counsel for the Controlling Collateral Agent.

IN WITNESS WHEREOF, the New Grantor, and the Controlling Collateral Agent have duly executed this Supplement to the Equal Priority Intercreditor Agreement as of the day and year first above written.

[NAME OF NEW GRANTOR],

By: _____
Name:
Title:

Acknowledged by:

[_____], as Controlling Collateral Agent,

By: _____
Name:
Title: