
**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): September 8, 2017

BGC Partners, Inc.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

0-28191, 1-35591
(Commission
File Numbers)

13-4063515
(I.R.S. Employer
Identification No.)

499 Park Avenue, New York, NY 10022
(Address of principal executive offices) (Zip code)

Registrant's telephone number, including area code: (212) 610-2200

(Former Name or 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 (see General Instruction A.2. below):

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

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§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.
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Item 1.01. Entry into a Material Definitive Agreement

The information set forth in Item 8.01 of this Current Report on Form 8-K is incorporated herein by reference.

Item 1.02. Termination of a Material Definitive Agreement

The information set forth in Item 8.01 of this Current Report on Form 8-K is incorporated herein by reference.

Item 2.01. Completion of Acquisition or Disposition of Assets

The information set forth in Item 8.01 of this Current Report on Form 8-K is incorporated herein by reference.

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

The information set forth in Item 8.01 of this Current Report on Form 8-K is incorporated herein by reference.

Item 7.01. Regulation FD Disclosure

On September 8, 2017, BGC Partners, Inc. (“BGC” or the “Company”) issued a press release announcing the matters described in Item 8.01. A copy of the press release is attached hereto as Exhibit 99.3 and is incorporated herein by reference.

Item 8.01. Other Events**Closing of Berkeley Point Acquisition and the Company Investment**

On September 8, 2017, BGC closed the transactions contemplated by the previously announced Transaction Agreement, dated as of July 17, 2017 (the “Transaction Agreement”), by and among BGC and one of its operating partnerships, BGC Partners, L.P., and Cantor Fitzgerald, L.P. (“Cantor”) and several of Cantor’s affiliates, specifically Cantor Commercial Real Estate Company, L.P. (the “Partnership”), Cantor Sponsor, L.P., the general partner of the Partnership, CF Real Estate Finance Holdings, L.P. (the “Real Estate LP”), and CF Real Estate Finance Holdings GP, LLC, the general partner of the Real Estate LP (the “Real Estate LP General Partner”). Specifically, BGC completed (i) the acquisition of Berkeley Point Financial LLC, including its wholly owned subsidiary, Berkeley Point Capital LLC (together, “Berkeley Point” or “BPF”), from the Partnership (the “Berkeley Point Acquisition”); and (ii) an investment of \$100 million in the Real Estate LP (the “Company Investment” and, together with the Berkeley Point Acquisition, the “Transactions”).

At the closing of the Berkeley Point Acquisition, BGC acquired all of the outstanding membership interests of Berkeley Point Financial LLC for an acquisition price equal to \$875 million, subject to a post-closing upward or downward adjustment to the extent that the net assets of BPF as of the closing of the Berkeley Point Acquisition were greater than or less than \$508.6 million. BGC paid a portion of the acquisition price for the Berkeley Point Acquisition in the form of 215,403 partnership units in BGC Holdings, L.P.

At the closing of the Company Investment, which occurred contemporaneously with the closing of the Berkeley Point Acquisition, BGC invested \$100 million of cash in the Real Estate LP for approximately 27 percent of the capital of the Real Estate LP. Cantor also contributed approximately \$267 million of cash for approximately 73 percent of the capital of the Real Estate LP. The Real Estate LP may conduct activities in any real estate-related business or asset-backed securities-related business or any extensions thereof and ancillary activities thereto. The Real Estate LP is operated and managed the Real Estate LP General Partner, which is controlled by Cantor.

At the closing of the Company Investment, BGC and Cantor entered into the Amended and Restated Agreement of Limited Partnership of the Real Estate LP (the "Real Estate LP Agreement"), the terms of which are described in BGC's Current Report on Form 8-K filed with Securities and Exchange Commission (the "SEC") on July 21, 2017, which description is incorporated herein by reference. The foregoing description of the Real Estate LP Agreement does not purport to be complete and is qualified in its entirety by reference to the actual terms of the Real Estate LP Agreement, a copy of which is attached hereto as Exhibit 10.1 and is incorporated herein by reference.

Upon the closing of the Transactions, Berkeley Point and the Company Investment became part of Newmark, the Company's Real Estate Services segment.

Credit Facilities and Borrowing

On September 8, 2017, the Company entered into two credit agreements by and among the Company, the several financial institutions from time to time party thereto, as Lenders, and Bank of America, N.A., as Administrative Agent (collectively, the "Credit Agreements"), pursuant to which it borrowed an

aggregate of \$975 million (the “Borrowing”). The first Credit Agreement provides for a \$400 million two-year unsecured senior revolving credit facility (the “Revolving Credit Facility”). The second Credit Agreement provides for a \$575 million unsecured senior term loan (the “Term Loan Facility”), maturing on the second anniversary of the closing date of the Term Loan Facility.

The Borrowing under the Revolving Credit Facility and the Term Loan Facility will bear interest at a per annum rate equal to, at the Company’s option, either (a) LIBOR for interest periods of one, two, three or six months, as selected by the Company, or upon the consent of all Lenders, such other period that is 12 months or less (in each case, subject to availability), as selected by the Company, plus an applicable margin, or (b) a base rate equal to the greatest of (i) the federal funds rate plus 0.5%, (ii) the prime rate as established by the Administrative Agent, and (iii) one-month LIBOR plus 1.0%, in each case plus an applicable margin. The applicable margin will initially be 2.25% with respect to LIBOR borrowings in (a) above and 1.25% with respect to base rate borrowings in (b) above. The applicable margin with respect to LIBOR borrowings in (a) above will range from 1.5% to 3.25% depending upon the Company’s credit rating, and with respect to base rate borrowings in (b) above will range from 0.5% to 2.25% depending upon the Company’s credit rating. In addition, (x) if there are any amounts outstanding under the Term Loan Facility as of December 31, 2017, the pricing shall increase by 0.50% until the Term Loan Facility is paid in full, and (y) if there are any amounts outstanding under the Term Loan Facility as of June 30, 2018, the pricing shall increase by an additional 0.75% (and 1.25% in the aggregate) until the Term Loan Facility is paid in full. From and after the repayment in full of the Term Loan Facility, the pricing shall return to the levels described above, as applicable. The Credit Agreements also provide for certain upfront and arrangement fees and for an unused facility fee with respect to the Revolving Credit Facility.

The Credit Agreements contain financial covenants with respect to minimum net worth, minimum net excess capital and minimum interest coverage, as well as a maximum leverage ratio. The Credit Agreements also contain certain other customary affirmative and negative covenants and events of default. The Term Loan Facility is also subject to mandatory prepayment from 100% of net cash proceeds of all material asset sales and debt and equity issuances (subject to certain customary exceptions, including sales under the Company’s CEO sales program).

On September 8, 2017, the Company drew \$400 million from the Revolving Credit Facility and \$575 million from the Term Loan Facility, both at an interest rate to be one-month LIBOR plus 2.25%, currently approximately 3.5% per annum, subject to adjustment.

The Company used these funds, together with cash on hand, to repay outstanding indebtedness of the Company (as described below), to finance the Transactions and to pay expenses related thereto and to the Credit Agreements. The Company expects to repay the Borrowing from future financing arrangements, existing financing sources, cash on hand and/or future equity issuances. Any amounts repaid under the Revolving Credit Facility may be reborrowed for general corporate purposes.

A portion of the Borrowing has been used to repay in full the outstanding balance of \$150 million under the Company's existing revolving credit agreement, dated as of February 25, 2016, by and among the Company, certain direct and indirect subsidiaries of the Company, the several financial institutions from time to time party thereto, as Lenders, and Bank of America, N.A., as Administrative Agent (the "Prior Credit Agreement"). The Prior Credit Agreement has been terminated in connection with the entry into the Credit Agreements. In addition, in connection with the Transactions and the Borrowing, an affiliate of Cantor repaid in full the \$150 million of indebtedness owed to the Company pursuant to the revolving credit facility, dated as of April 21, 2017, between the Company and such affiliate of Cantor.

The foregoing descriptions of the Credit Agreements do not purport to be complete and are qualified in their entirety by reference to the actual terms of the Credit Agreements, copies of which are attached hereto as Exhibit 10.2 and Exhibit 10.3, respectively, and are incorporated herein by reference.

Discussion of Forward-Looking Statements

Statements contained or incorporated by reference herein regarding BGC, Berkeley Point, the Real Estate LP, the Berkeley Point Acquisition, the Company Investment, the Credit Agreements or the Borrowing that are not historical facts are "forward-looking statements" that involve risks and uncertainties, which could cause actual results to differ from those contained in the forward-looking statements. Factors that could cause actual results to differ from those contained in the forward-looking statements include, but are not limited to: the possibility that there may be an adverse effect or disruption from the Berkeley Point Acquisition, the Company Investment, the Credit Agreements or the Borrowing that negatively impacts BGC's businesses; the possibility that the anticipated benefits of the

Transactions to BGC may not be realized as presently contemplated or at all; and the possibility that changes in interest rates, commercial real estate values, the regulatory environment, the effects of weather events or natural disasters, pricing or other competitive pressures, and other market conditions or factors could cause the results of BGC, Berkeley Point or the Real Estate LP to differ from the forward-looking statements contained or incorporated by reference herein. For a discussion of additional risks and uncertainties, which could cause actual results to differ from those contained in the forward-looking statements, see BGC's SEC filings, including, but not limited to, the risk factors set forth in the most recent Form 10-K and any updates to such risk factors contained in subsequent Forms 10-Q or Forms 8-K. Except as required by law, BGC undertakes no obligation to update any forward-looking statements.

Item 9.01. Financial Statements and Exhibits

(a) Financial Statements of Business Acquired.

Berkeley Point Financial LLC's unaudited consolidated financial statements as of June 30, 2017 and December 31, 2016 and for the six months ended June 30, 2017 and 2016, and audited consolidated financial statements as of December 31, 2016 and 2015 (Successor) and for the years ended December 31, 2016 and 2015 (Successor) and for the periods April 10, 2014 through December 31, 2014 (Successor) and January 1, 2014 through April 9, 2014 (Predecessor), are attached hereto as Exhibit 99.1 and are incorporated herein by reference.

(b) Pro Forma Financial Information.

BGC Partners, Inc.'s unaudited pro forma condensed consolidated and combined financial statements as of June 30, 2017, for the six months ended June 30, 2017 and for the years ended December 31, 2016, 2015 and 2014, giving effect to its acquisition of all of the outstanding membership interests of Berkeley Point, its acquisition of a 27% interest in the Real Estate LP, and the Borrowing, and Management's Discussion and Analysis of Pro Forma Financial Condition and Pro Forma Results of Operations, are attached hereto as Exhibit 99.2 and are incorporated herein by reference.

(d) Exhibits.

- 10.1 Amended and Restated Agreement of Limited Partnership of CF Real Estate Finance Holdings, L.P., dated as of September 8, 2017
- 10.2 Revolving Credit Agreement, dated as of September 8, 2017, by and among BGC Partners, Inc., as the Borrower, certain subsidiaries of the Borrower, as Guarantors, the several financial institutions from time to time as parties thereto, as Lenders, and Bank of America, N.A., as Administrative Agent
- 10.3 Term Loan Credit Agreement, dated as of September 8, 2017, by and among BGC Partners, Inc., as the Borrower, certain subsidiaries of the Borrower, as Guarantors, the several financial institutions from time to time party thereto, as Lenders, and Bank of America, N.A., as Administrative Agent
- 23.1 Consent of KPMG LLP
- 99.1 Berkeley Point Financial LLC's unaudited consolidated financial statements as of June 30, 2017 and December 31, 2016 and for the six months ended June 30, 2017 and 2016, and audited consolidated financial statements as of December 31, 2016 and 2015 (Successor) and for the years ended December 31, 2016 and 2015 (Successor) and for the periods April 10, 2014 through December 31, 2014 (Successor) and January 1, 2014 through April 9, 2014 (Predecessor)
- 99.2 BGC Partners, Inc.'s unaudited pro forma condensed consolidated and combined financial statements as of June 30, 2017, for the six months ended June 30, 2017 and for the years ended December 31, 2016, 2015 and 2014, giving effect to its acquisition of all of the outstanding membership interests of Berkeley Point, its acquisition of a 27% interest in the Real Estate LP, and the Borrowing, and Management's Discussion and Analysis of Pro Forma Financial Condition and Pro Forma Results of Operations
- 99.3 BGC Partners, Inc. Press Release, dated September 8, 2017

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report on Form 8-K to be signed on its behalf by the undersigned hereunto duly authorized.

Dated: September 8, 2017

BGC PARTNERS, INC.

By: /s/ Howard W. Lutnick

Name: Howard W. Lutnick

Title: Chairman and Chief Executive Officer

Exhibit List

<u>Exhibit No.</u>	<u>Description</u>
10.1	<u>Amended and Restated Agreement of Limited Partnership of CF Real Estate Finance Holdings, L.P., dated as of September 8, 2017</u>
10.2	<u>Revolving Credit Agreement, dated as of September 8, 2017, by and among BGC Partners, Inc., as the Borrower, certain subsidiaries of the Borrower, as Guarantors, the several financial institutions from time to time as parties thereto, as Lenders, and Bank of America, N.A., as Administrative Agent</u>
10.3	<u>Term Loan Credit Agreement, dated as of September 8, 2017, by and among BGC Partners, Inc., as the Borrower, certain subsidiaries of the Borrower, as Guarantors, the several financial institutions from time to time party thereto, as Lenders, and Bank of America, N.A., as Administrative Agent</u>
23.1	<u>Consent of KPMG LLP</u>
99.1	<u>Berkeley Point Financial LLC's unaudited consolidated financial statements as of June 30, 2017 and December 31, 2016 and for the six months ended June 30, 2017 and 2016, and audited consolidated financial statements as of December 31, 2016 and 2015 (Successor) and for the years ended December 31, 2016 and 2015 (Successor) and for the periods April 10, 2014 through December 31, 2014 (Successor) and January 1, 2014 through April 9, 2014 (Predecessor)</u>
99.2	<u>BGC Partners, Inc.'s unaudited pro forma condensed consolidated and combined financial statements as of June 30, 2017, for the six months ended June 30, 2017 and for the years ended December 31, 2016, 2015 and 2014, giving effect to its acquisition of all of the outstanding membership interests of Berkeley Point, its acquisition of a 27% interest in the Real Estate LP, and the Borrowing, and Management's Discussion and Analysis of Pro Forma Financial Condition and Pro Forma Results of Operations</u>
99.3	<u>BGC Partners, Inc. Press Release, dated September 8, 2017</u>

EXECUTION VERSION

CF REAL ESTATE FINANCE HOLDINGS, L.P.

AMENDED AND RESTATED

AGREEMENT

OF

LIMITED PARTNERSHIP

THE EQUITY INTERESTS IN THE PARTNERSHIP ISSUED PURSUANT TO THIS AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED, OR UNDER THE SECURITIES OR "BLUE SKY" LAWS OF ANY STATE OR OTHER JURISDICTION, AND MAY NOT BE SOLD OR TRANSFERRED UNLESS THEY ARE REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED, AND ANY OTHER APPLICABLE SECURITIES OR "BLUE SKY" LAWS, OR UNLESS AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE. SUCH EQUITY INTERESTS ARE SUBJECT TO THE RESTRICTIONS ON TRANSFER SET FORTH IN THIS AGREEMENT.

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Schedule A	List of Partners
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CF REAL ESTATE FINANCE HOLDINGS, L.P.

AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP

This **AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP** (as further amended or restated from time to time, this “**Agreement**”) of CF Real Estate Finance Holdings, L.P., a Delaware limited partnership (the “**Partnership**”), is entered into as of September 8, 2017, by and among CF Real Estate Finance Holdings GP, LLC, a Delaware limited liability company, as the general partner (the “**General Partner**”), those persons and entities listed on Schedule A hereto as limited partners (those limited partners listed on Schedule A hereto and those limited partners subsequently admitted pursuant to the terms of this Agreement, together with their respective permitted successors and assigns, collectively, the “**Limited Partners**”).

WITNESSETH:

WHEREAS, the Partnership was formed as a limited partnership under the Delaware Revised Uniform Limited Partnership Act (as in effect from time to time, the “**Act**”) by the filing of a Certificate of Limited Partnership with the Office of the Secretary of State of the State of Delaware on July 10, 2017 (as it may be further amended or restated from time to time, the “**Certificate**”);

WHEREAS, on July 10, 2017, the General Partner and Cantor Commercial Real Estate Investor, L.P., a Delaware limited partnership, as a limited partner of the Partnership, entered into a Limited Partnership Agreement of the Partnership (the “**Prior Agreement**”);

WHEREAS, on July 17, 2017, the Partnership, the General Partner, Cantor, BGC Partners and BGC Partners, L.P. entered into a Transaction Agreement (the “**Transaction Agreement**”), pursuant to which (a) BGC Partners or its designated Subsidiary agreed to purchase and acquire from the Partnership newly issued Series A Units, with the rights and privileges as set forth in this Agreement, in exchange for \$100 million in cash, and (b) Cantor or its designated Subsidiary agreed to purchase and acquire from the Partnership newly issued Series B Units, with the rights and privileges as set forth in this Agreement, in exchange for \$266.67 million in cash or non-cash assets (collectively, the “**Investment**”);

WHEREAS, upon execution of this Agreement, and concurrently with the Investment, the Partnership shall issue to Cantor or another member of the Cantor Group 100% of the Special Voting Limited Partnership Interest, with the rights and privileges as set forth in this Agreement (the “**Special Voting Limited Partnership Issuance**”); and

WHEREAS, the execution of this Agreement (which amends and restates the Prior Agreement in its entirety) shall effect the Investment and the Special Voting Limited Partnership Issuance, and shall set forth the rights, privileges and obligations of the Partners in respect of the Partnership;

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained and intending to be legally bound hereby, the Partners agree that the Prior Agreement shall be amended and restated in its entirety as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. Capitalized terms used in this Agreement shall have the meanings set forth or referred to as follows:

“ **40 Act** ” means the Investment Company Act of 1940, as amended.

“ **Act** ” has the meaning set forth in the recitals hereto.

“ **Adjusted Capital Account Deficit** ” means, with respect to any Partner, the deficit balance, if any, in such Partner’s Capital Account after giving effect to the following adjustments: (a) credit to such Capital Account (i) any amounts that such Partner is deemed to be obligated to restore pursuant to the penultimate sentences in Treasury Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5) and (ii) any amounts such Partner is obligated to restore pursuant to any provision of this Agreement or under applicable law, and (b) debit to such Capital Account the adjustments, allocations and distributions described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6). The foregoing definition of “Adjusted Capital Account Deficit” is intended to comply with the “alternate test of economic effect” provisions of Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

“ **Adjusted Taxable Income** ” means, with respect to each Partner for a Fiscal Year, (a) the cumulative U.S. federal taxable income allocated to such Partner with respect to its Units for such Fiscal Year, less (b) any losses from prior Fiscal Years to the extent such prior losses are of a character that would permit such losses to be deducted against the U.S. federal taxable income of such Partner for the current Fiscal Year and have not been previously taken into account pursuant to this clause (b).

“ **Affiliate** ” means, with respect to any Person as of a particular time, any other Person that as of such time directly or indirectly, through one or more intermediaries, Controls, or is Controlled by, or is under common Control with, such first Person; provided that, for purposes of this Agreement, members of the BGC Partners Group and the Newmark Group shall not be considered Affiliates of any of the members of the Cantor Group, and members of the Cantor Group shall not be considered Affiliates of any of the members of the BGC Partners Group or the Newmark Group.

“ **Aggregate Investment Amount** ” means, as of any time, the sum of (a) the BGC Investment Amount as of such time and (b) the CF Investment Amount as of such time.

“ **Agreement** ” has the meaning set forth in the Introduction hereto.

“ **Applicable Tax Rate** ” means, with respect to each Partner for each Fiscal Year (or each Fiscal Quarter of a Fiscal Year), the highest combined marginal statutory U.S. federal, state and local income, franchise and branch profit tax rate (taking into account the deductibility of state and local income taxes for federal income tax purposes and the creditability or deductibility of foreign income taxes for federal income tax purposes) applicable to such Partner on income of the same character and source as the income allocated to such Partner pursuant to Article V for such Fiscal Year (or Fiscal Quarter), as determined by the General Partner in its discretion; provided, that in the case of a Partner that is a partnership, grantor trust, or other pass-through entity for U.S. federal income tax purposes, such tax rate applicable to such Partner for purposes of determining the Applicable Tax Rate shall be the weighted average of the tax rates of such Partner’s members, grantor-owners or other beneficial owners (weighted in proportion to their relative economic interests in such Partner), as determined by the General Partner in its discretion; provided, further, that if any such member, grantor-owner or other beneficial owner of such Partner is itself a partnership, grantor trust or other pass-through entity, similar principles shall be applied by the General Partner in its discretion to determine the tax rate of such member, grantor-owner or other beneficial owner.

“ **Available Cash** ” means, with respect to any Distribution Period:

- (a) the sum of: (i) all cash and cash equivalents of the Partnership on hand at the end of such Distribution Period; and (ii) if the General Partner so determines in its sole discretion, all or any portion of additional cash and cash equivalents of the Partnership on hand on the date of determination of Available Cash with respect to such Distribution Period resulting from borrowings made subsequent to the end of such Distribution Period; *less*
- (b) the amount of any cash reserves established by the General Partner for the Partnership or any of its Subsidiaries on the date of determination of Available Cash with respect to such Distribution Period, to (i) provide for the proper conduct of the business of the Partnership or any of its Subsidiaries (including reserves for working capital, operating expenses, future capital expenditures, potential acquisitions and for anticipated future credit needs of the Partnership or any of its Subsidiaries); or (ii) comply with applicable law or any loan agreement, security agreement, mortgage, debt instrument or other agreement or obligation to which the Partnership or any of its Subsidiaries is a party or by which it is bound or its assets are subject (it being understood that disbursements made by the Partnership or its Subsidiaries or cash reserves established, increased or reduced after the end of such Distribution Period but on or before the date of determination of Available Cash with respect to such Distribution Period shall, if the General Partner so determines, be deemed to have been made, established, increased or reduced, for purposes of determining Available Cash, within such Distribution Period).

“ **BGC Investment Amount** ” means initially \$100 million, as adjusted upward and downward after the Closing Date by the same amount that the Capital Accounts of the Limited Partners that are holders of Series A Units are collectively adjusted (including the allocation of Net Profits, allocation of Net Losses and any Distribution).

“ **BGC Investment Percentage** ” means, as of any time, the percentage obtained by dividing (a) the BGC Investment Amount as of such time, by (b) the Aggregate Investment Amount as of such time.

“ **BGC Partners** ” means BGC Partners, Inc., a Delaware corporation.

“ **BGC Partners Group** ” means BGC Partners and its Subsidiaries (other than any member of the Partnership Group).

“ **BGC Preferred Return Amount** ” means, with respect to any taxable year (or other taxable period), five percent (5%) per annum of the BGC Investment Amount as of the end of such taxable year (or other taxable period) (it being understood that (a) for purposes of calculating five percent (5%) per annum of the BGC Investment Amount as of the end of such taxable year (or other taxable period), the BGC Investment Amount shall not include any amounts of Net Profits (or items thereof) or Net Losses (or item thereof) previously allocated pursuant to Section 5.2 for such taxable year (or other taxable period), and (b) for any taxable period that is less than a taxable year, such five percent (5%) per annum rate shall be proportionately reduced to reflect the proportion of a taxable year represented by such taxable period).

“ **BGC Shortfall Amount** ” has the meaning set forth in Section 5.2(a)(iii).

“ **Cantor** ” means Cantor Fitzgerald, L.P., a Delaware limited partnership.

“ **Cantor Group** ” means Cantor and its Subsidiaries (other than any member of the BGC Partners Group or any member of the Partnership Group).

“ **Capital Account** ” has the meaning set forth in Section 5.1(a).

“ **Capital Contribution** ” means, as to each Partner, the amount actually contributed in cash or other assets or deemed to have been contributed under the terms of this Agreement to the Partnership by such Partner as of the time the determination is made.

“ **Certificate** ” has the meaning set forth in the recitals hereto.

“ **CF Investment Amount** ” means initially \$266.67 million, as adjusted upward and downward after the Closing Date by the same amount that the Capital Accounts of the Limited Partners that are holders of Series B Units are collectively adjusted (including the allocation of Net Profits, allocation of Net Losses and any Distribution).

“ **CF Investment Percentage** ” means, as of any time, the percentage obtained by dividing (a) the CF Investment Amount as of such time, by (b) the Aggregate Investment Amount as of such time.

“ **CF Preferred Return Amount** ” means, with respect to any taxable year (or other taxable period), five percent (5%) per annum of the CF Investment Amount as of the end of such taxable year (or other taxable period) (it being understood that (a) for purposes of calculating five percent (5%) per annum of the CF Investment Amount as of the end of such taxable year (or other taxable period), the CF Investment Amount shall not include any amounts of Net Profits (or items thereof) or Net Losses (or item thereof) previously allocated pursuant to Section 5.2 for such taxable year (or other taxable period), and (b) for any taxable period that is less than a taxable year, such five percent (5%) per annum rate shall be proportionately reduced to reflect the proportion of a taxable year represented by such taxable period).

“ **CF Shortfall Amount** ” has the meaning set forth in Section 5.2(a)(v).

“ **Change of Control Transaction** ” means one or a series of related transactions as a result of which (a) Cantor and its Affiliates, taken together, cease to own at least fifty percent (50%) of the voting equity interests of the General Partner or (b) any Person (other than Cantor and its Affiliates) acquires (including by means of a merger, consolidation or otherwise) Units representing a greater than fifty percent (50%) interest in the capital or profits of the Partnership immediately prior to such transaction or series of related transactions.

“ **Closing Date** ” means September 8, 2017.

“ **Code** ” means the U.S. Internal Revenue Code of 1986, as amended.

“ **Confidential Information** ” has the meaning set forth in Section 14.4.

“ **Control** ” means the possession, directly or indirectly, of the power, alone or together with others, to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

“ **Corporate Opportunity** ” means any business opportunity that the Partnership is financially able to undertake, that is, from its nature, in any of the Partnership’s lines of business, is of practical advantage to the Partnership and is one in which the Partnership has an interest or a reasonable expectancy, and in which, by embracing the opportunities, the self-interest of a member of the BGC Partners Group, a member of the Cantor Group, the General Partner or their respective Representatives will be brought into conflict with the Partnership’s self-interest.

“ **DGCL** ” has the meaning set forth in Section 8.2(a).

“ **Distribution** ” has the meaning set forth in Section 6.1(a).

“ **Distribution Period** ” means each fiscal year of the Partnership, unless otherwise determined by the General Partner; provided that the first Distribution Period shall commence on the Closing Date and end on the last day of the fiscal year in which the Closing Date occurs (unless otherwise determined by the General Partner).

“ **ECI** ” has the meaning set forth in Section 3.10.

“ **Equity Interest** ” means, with respect to any Partner, the entire right, title and interest of such Partner in the Partnership and any appurtenant rights, including any voting or approval rights and any right or obligation to contribute capital to the Partnership.

“ **ERISA** ” means the Employee Retirement Income Security Act of 1974, as amended.

“ **Estimated Adjusted Taxable Income** ” means, with respect to each Partner for a Fiscal Year (or a Fiscal Quarter), (a) the cumulative estimated U.S. federal taxable income allocated (or allocable) to such Partner with respect to its Units for such Fiscal Year (or the portion of the Fiscal Year ending with the end of such Fiscal Quarter), less (b) any losses from prior Fiscal Years to the extent such prior losses are of a character that would permit such losses to be deducted against the U.S. federal taxable income of such Partner for such Fiscal Year (or the portion of the Fiscal Year ending with the end of such Fiscal Quarter) and have not been previously taken into account pursuant to this clause (b).

“ **Estimated Tax Due Date** ” means the 15th date of each of April, June, September and December.

“ **Extraordinary Transaction** ” means (a) an Initial Public Offering, (b) a sale of all or substantially all of the assets of the Partnership Group outside the ordinary course of business or (c) a Change of Control Transaction.

“ **Fiscal Quarter** ” means each of the four (4) three (3)-month periods into which the Fiscal Year can be divided, which, unless the Fiscal Year is changed otherwise pursuant to Section 3.7 and the Code, shall be the three (3)-month periods beginning on January 1, April 1, July 1 and October 1 of each Fiscal Year.

“ **Fiscal Year** ” has the meaning set forth in Section 3.7.

“ **GAAP** ” has the meaning set forth in Section 3.1.

“ **General Partner** ” has the meaning set forth in the Introduction hereto.

“ **General Partner Unit** ” means a Unit having the rights and obligations specified with respect to a “General Partner Unit” in this Agreement.

“ **Gross Asset Value** ” means, with respect to any asset of the Partnership, such asset’s adjusted basis for U.S. federal income tax purposes, except as follows:

(a) the initial Gross Asset Value of any asset contributed by a Partner to the Partnership shall be the gross fair market value of such asset at the time of contribution;

(b) the Gross Asset Values of all assets of the Partnership may be adjusted to equal their respective gross fair market values, immediately prior to the following events:

- (i) a capital contribution to the Partnership by a new or existing Partner as consideration for an interest in the Partnership;
- (ii) the distribution by the Partnership to a Partner of the property of the Partnership as consideration for the redemption of an interest in the Partnership;
- (iii) the grant of an interest in the Partnership as consideration for the provision of services to or for the benefit of the Partnership by a new or existing Partner; and
- (iv) the liquidation of the Partnership within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g); and

(c) the Gross Asset Values of assets of the Partnership distributed to any Partner shall be the gross fair market values of such assets as reasonably determined by the General Partner as of the date of distribution.

“**Gross Income**” means, with respect to any period, the gross income of the Partnership for U.S. federal income tax purposes computed with the following adjustments: (a) items of gain, loss and deduction shall be computed based on the book values of the Partnership’s assets rather than upon the assets’ adjusted bases for U.S. federal income tax purposes; (b) the amount of any adjustment to the book value of any assets of the Partnership pursuant to Code Section 743 shall not be taken into account; (c) any tax-exempt income received by the Partnership shall be deemed for purposes of this Agreement (including for purposes of calculating Net Profits and Net Losses) to be an item of Gross Income; and (d) any expenditure of the Partnership described in Code Section 705(a)(2)(B) and any expenditure considered to be an expenditure described in Code Section 705(a)(2)(B) pursuant to Treasury Regulations under Code Section 704(b) shall be treated as a deductible expense; provided that the General Partner may determine to take into account in calculating Gross Income, Net Losses or Net Profits (or any items thereof) for any year such items of income or expense (including charges or reserves) as it deems appropriate or necessary to more properly reflect the income or loss of the Partnership.

“**Gross Percentage Return on Capital**” means, for any period, the percentage calculated by dividing (a) the Net Profits for such period by (b) the Aggregate Investment Amount as of the end of such period (it being understood that, for purposes of calculating Gross Percentage Return on Capital for such period, the Aggregate Investment Amount as of the end of such period shall not include any amounts of Net Profits (or items thereof) or Net Losses (or item thereof) allocated pursuant to Section 5.2 for such period).

“**Indebtedness**” of any Person means, without duplication, (a) all indebtedness of such Person for borrowed money or for the deferred purchase price of assets, and all other obligations of such Person evidenced by a note, bond, debenture or similar instrument (but only to the extent disbursed with respect to lines of credit, credit facilities or similar arrangements that, by their nature, are drawn upon), (b) the face amount of all letters of credit issued for the account of such Person and, without duplication, all unreimbursed amounts drawn thereunder, (c) all capitalized leases, (d) all net payment obligations of such Person under any rate hedging agreements, and (e) all liabilities of others of the kinds described in clauses (a) through (d) above that such Person has guaranteed or, subject to the limitations of the following sentence, that are secured by a lien to which any assets of such Person are subject, whether or not the obligations secured thereby shall have been assumed by such Person or shall otherwise be such Person’s

legal liability. If the obligations so secured have not been assumed by such Person or are not otherwise such Person's legal liability, then the Indebtedness attributable to such obligations shall be deemed to be in an amount equal to the lesser of the full amount of such obligations or the fair market value of the assets of such Person by which such obligations are secured.

“ **Initial Public Offering** ” means an initial underwritten public offering, pursuant to an effective registration statement under the Securities Act, of equity securities of the Partnership, any successor to the Partnership by way of merger, consolidation or otherwise or any Subsidiary of the Partnership or any Affiliate of the Partnership formed for the purpose of completing such offering.

“ **Investment** ” has the meaning set forth in the recitals hereto.

“ **Limited Partners** ” has the meaning set forth in the Introduction hereto.

“ **Limited Partnership Interests** ” means the Regular Limited Partnership Interests and the Special Voting Limited Partnership Interests.

“ **Liquidating Agent** ” has the meaning set forth in Section 12.1(a).

“ **Net Losses** ” means, with respect to any period, the taxable loss of the Partnership for such period for U.S. federal income tax purposes computed with the same adjustments that Gross Income is calculated with, but excluding any item of gross income, gain, deduction or loss, if any, specially allocated to any Partner pursuant to any provision of Article V other than Section 5.2. Solely for purposes of determining the Net Losses of the Partnership allocable to the Partners according to the priorities set forth in Section 5.2(b), the term “Net Losses” shall refer to the Net Losses, if any, of the Partnership determined after excluding all items of gross income, gain, loss and deduction specially allocated under any provision of Article V other than Section 5.2, even if, prior to excluding all such specially allocated items, the Partnership earned a Net Profit. Notwithstanding the foregoing, the General Partner may determine to take into account in calculating Net Losses or Net Profits (or any items thereof) for any year such items of income or expense (including charges or reserves) as it deems appropriate or necessary to more properly reflect the income or loss of the Partnership.

“ **Net Profits** ” means, with respect to any period, the taxable income of the Partnership for such period for U.S. federal income tax purposes computed with the same adjustments that Gross Income is calculated with, but excluding any item of gross income, gain, deduction or loss, if any, specially allocated to any Partner pursuant to any provision of Article V other than Section 5.2. Solely for purposes of determining the Net Profits of the Partnership allocable to the Partners according to the priorities set forth in Section 5.2(a), the term “Net Profits” shall refer to the Net Profits, if any, of the Partnership determined after excluding all items of gross income, gain, loss and deduction specially allocated under any provision of Article V other than Section 5.2, even if, prior to excluding all such specially allocated items, the Partnership earned a Net Loss. Notwithstanding the foregoing, the General Partner may determine to take into account in calculating Net Losses or Net Profits (or any items thereof) for any year such items of income or expense (including charges or reserves) as it deems appropriate or necessary to more properly reflect the income or loss of the Partnership.

“ **Newmark** ” means NRE Delaware, Inc., a Delaware corporation (as such name may be amended from time to time).

“ **Newmark Group** ” means Newmark and its Subsidiaries (other than any member of the Partnership Group).

“ **Newmark Separation** ” has the meaning set forth in Section 9.2(c).

“ **Non-recourse deductions** ” has the meaning set forth in Section 5.4(b).

“ **Partner** ” means each of the General Partner and the Limited Partners.

“ **Partner Minimum Gain** ” has the meaning set forth in Section 5.4(c).

“ **Partner Non-recourse Debt** ” has the meaning set forth in Section 5.4(b).

“ **Partner Non-recourse deductions** ” has the meaning set forth in Section 5.4(b).

“ **Partnership** ” has the meaning set forth in the Introduction hereto.

“ **Partnership Group** ” means the Partnership and its Subsidiaries.

“ **Person** ” means a corporation, association, retirement system, international organization, joint venture, partnership, limited liability company, trust or individual.

“ **Prior Agreement** ” has the meaning set forth in the recitals hereto.

“ **proceeding** ” has the meaning set forth in Section 8.2(a).

“ **Profits Interest** ” has the meaning set forth in Section 3.9.

“ **Proposed Rules** ” has the meaning set forth in Section 3.9.

“ **Quarterly Tax Distribution** ” has the meaning set forth in Section 6.4(a).

“ **Quarterly Tax Distribution Amount** ” means, with respect to each Partner for each Fiscal Quarter of a Fiscal Year, an amount equal to (a) the excess of (i) the product of (A) such Partner’s Estimated Adjusted Taxable Income for the portion of such Fiscal Year ending with the end of such Fiscal Quarter (which portion shall be the entire Fiscal Year in the case of the fourth Fiscal Quarter of such Fiscal Year) and (B) such Partner’s Applicable Tax Rate over (ii) the aggregate amount of all prior Quarterly Tax Distributions made to such Partner with respect to such Fiscal Year pursuant to Section 6.4(a), less (b) the lesser of (i) the amount of the excess described in clause (a) above and (ii) the sum of the aggregate amount of all prior distributions made in such Fiscal Year pursuant to Section 6.1 or Section 6.2 (other than any distributions made pursuant to Section 6.4(a) or Section 6.4(b) that are, pursuant to Section 6.4(c), treated as distributions made pursuant to Section 6.1 or Section 6.2).

“ **Regular Limited Partner** ” means any Person who has acquired a Regular Limited Partnership Interest pursuant to and in compliance with this Agreement and who shall have been admitted to the Partnership as a Regular Limited Partner in accordance with this Agreement and shall not have ceased to be a Regular Limited Partner under the terms of this Agreement.

“ **Regular Limited Partnership Interest** ” means, with respect to any Regular Limited Partner, such Partner’s Units designated under “Regular Limited Partners” on Schedule A hereto in accordance with this Agreement and rights and obligations with respect to the Partnership pursuant to this Agreement and applicable law by virtue of such Partner holding such Units.

“ **Representatives** ” means, with respect to any Person, the Affiliates, directors, officers, employees, general partners, agents, accountants, managing member, employees, counsel and other advisors and representatives of such Person; provided that, for purposes of this Agreement, members of the Cantor Group shall not be considered Representatives of any of the members of the BGC Partners Group or the Newmark Group, and members of the BGC Partners Group and the Newmark Group shall not be considered Representatives of any of the members of the Cantor Group.

“ **Safe Harbor Election** ” has the meaning set forth in Section 3.9.

“ **Securities Act** ” means the U.S. Securities Act of 1933, as amended.

“ **Series A Unit** ” means a Unit having the rights and obligations specified with respect to a “Series A Unit” in this Agreement.

“ **Series B Unit** ” means a Unit having the rights and obligations specified with respect to a “Series B Unit” in this Agreement.

“ **Special Voting Limited Partner** ” means any Person who has acquired a Special Voting Limited Partnership Interest pursuant to and in compliance with this Agreement and who shall have been admitted to the Partnership as a Special Voting Limited Partner in accordance with this Agreement and shall not have ceased to be a Special Voting Limited Partner under the terms of this Agreement.

“ **Special Voting Limited Partnership Interest** ” means, with respect to any Special Voting Limited Partner, such Partner’s Units designated under “Special Voting Limited Partner” on Schedule A hereto in accordance with this Agreement and rights and obligations with respect to the Partnership pursuant to this Agreement and applicable law by virtue of such Partner holding such Units.

“ **Special Voting Limited Partnership Issuance** ” has the meaning set forth in the recitals hereto.

“ **Special Voting Limited Partnership Units** ” means a Unit having the rights and obligations specified with respect to a “Special Voting Limited Partnership Unit” in this Agreement, including the right to remove and replace the general partner of the Partnership in accordance with Section 7.3.

“ **Subscription Agreement** ” has the meaning set forth in Section 4.3.

“ **Subsidiary** ” means, with respect to any Person, any other Person of which fifty percent (50%) or more of the voting power of the outstanding voting equity securities or fifty percent (50%) or more of the outstanding economic equity interest is held, directly or indirectly, by such Person.

“ **TMP** ” has the meaning set forth in Section 3.6(a).

“ **Transaction Agreement** ” has the meaning set forth in the recitals hereto.

“ **Transfer** ” means any transfer, sale, conveyance, assignment, gift, hypothecation, pledge or other disposition of all or any part of an Equity Interest or any right, title or interest therein.

“ **Transferee** ” means the transferee in a Transfer or proposed Transfer.

“ **Treasury Regulations** ” means the regulations promulgated under the Code, as such regulations may be amended from time to time.

“ **UBTI** ” has the meaning set forth in Section 3.10.

“ **Unit** ” means a unit representing a fractional part of the Equity Interests of all of the Partners and shall include all types and classes and/or series of Units; provided that any type, class or series of Unit shall have the designations, preferences and/or special rights set forth in this Agreement and the Equity Interests represented by such type or class or series of Unit shall be determined in accordance with such designations, preferences and/or special rights.

“ **Withholding Payment** ” has the meaning set forth in Section 6.3(a).

“ **Year End Tax Distribution Amount** ” means, with respect to each Partner for each Fiscal Year, an amount equal to (a) the excess of (i) the product of (A) such Partner’s Adjusted Taxable Income for such Fiscal Year and (B) such Partner’s Applicable Tax Rate, over (ii) the aggregate amount of all prior Quarterly Tax Distributions made to such Partner with respect to such Fiscal Year pursuant to Section 6.4(a), less (b) the lesser of (i) the amount of the excess described in clause (a) above and (ii) the aggregate amount of all prior distributions made in such Fiscal Year to such Partner pursuant to Section 6.1 or Section 6.2 (other than any distributions made pursuant to Section 6.4(a) or Section 6.4(b) that are, pursuant to Section 6.4(c), treated as distributions made pursuant to Section 6.1 or Section 6.2).

ARTICLE II

FORMATION OF LIMITED PARTNERSHIP

Section 2.1 Organization. The Partnership was formed by the filing of the Certificate with the Secretary of State of the State of Delaware on July 10, 2017. The rights, powers, duties, obligations and liabilities of the Partners shall be determined pursuant to the Act and this Agreement. To the extent that the rights, powers, duties, obligations and liabilities of any Partner are different by reason of any provision of this Agreement than they would be in the absence of such provision, this Agreement shall, to the extent permitted by the Act, control. The General Partner shall deliver a copy of the Certificate and any amendment thereto to any Partner who so requests.

Section 2.2 Partnership Name. The name of the Partnership shall be “CF Real Estate Finance Holdings, L.P.” or any other name selected by the General Partner.

Section 2.3 Purposes and Business. The Partnership is formed for the purpose of conducting any acts or activities (including investments) in any real estate related business or asset-backed securities related business (including any financing, capital markets or trading activities related or ancillary thereto, including mortgages) or any extensions thereof and ancillary activities thereto, and engaging in any and all activities necessary or incidental to the foregoing.

Section 2.4 Principal Business Office, Registered Office and Registered Agent. The principal business office of the Partnership shall be located at c/o Cantor Fitzgerald, L.P., 110 East 59th Street, New York, NY 10022. The principal business office of the Partnership may be changed from time to time by the General Partner. The registered office of the Partnership in the State of Delaware shall be c/o Corporation Service Company, 251 Little Falls Dr., Wilmington, New Castle County, Delaware 19808. The name and address of the registered agent for service of process on the Partnership pursuant to the Act shall be Corporation Service Company, 251 Little Falls Dr., Wilmington, New Castle County, Delaware 19808. The registered agent and registered office of the Partnership may be changed by the General Partner from time to time. The General Partner shall promptly notify the Limited Partners of any such change.

Section 2.5 Qualification in Other Jurisdictions. The General Partner may cause the Partnership to be qualified or registered under applicable laws in such states as the General Partner determines appropriate in its sole and absolute discretion to avoid any material adverse effect on the business of the Partnership and shall be authorized to execute, deliver and file any certificates and documents necessary to effect such qualification or registration, including the appointment of agents for service of process in such jurisdictions.

Section 2.6 Powers. In furtherance of its purposes set forth in Section 2.3, but subject to all of the provisions of this Agreement, the Partnership shall have and may exercise all of the powers and rights which can be conferred upon limited partnerships formed pursuant to the Act.

ARTICLE III

BOOKS AND RECORDS, TAX ELECTIONS AND REPORTS

Section 3.1 Books and Accounts. Complete and accurate books and accounts shall be kept and maintained for the Partnership by the General Partner at the office of the Partnership. Such books and accounts shall be kept in accordance with U.S. generally accepted accounting principles (“GAAP”) consistently applied, including, to the extent applicable, fair value accounting under ASC-820 (formerly referred to as FASB 157), the provisions of Article V and on such other basis, if any, as the General Partner determines is appropriate to properly reflect the operations of the Partnership. Each Limited Partner or its duly authorized representative may, at its own expense, during ordinary business hours and upon reasonable prior written notice to the General Partner, have access to and inspect such books and accounts for any purpose reasonably related to such Partner’s interest as a Partner of the Partnership.

Section 3.2 Records Available. The Partnership shall at all times keep or cause to be kept true and complete records and books of account, which records and books shall be maintained in accordance with GAAP. Such records and books of account shall be kept at the principal place of business of the Partnership by the General Partner. The Limited Partners shall have the right to gain access to all such records and books of account (including schedules thereto) for inspection and view (during ordinary business hours and upon reasonable prior written notice to the General Partner) for any purpose reasonably related to their Equity Interests.

Section 3.3 Financial Statements. The Partnership’s auditors shall be an independent accounting firm of international reputation to be appointed from time to time by the General Partner. The Partnership’s auditors shall be entitled to receive promptly such information, accounts and explanations from the General Partner and each Partner that they deem reasonably necessary to carry out their duties. The Partners shall provide such financial, tax and other information to the Partnership as may be reasonably necessary and appropriate to carry out the purposes of the Partnership. The Partnership shall use its reasonable efforts to prepare, or cause to be prepared, financial statements for the Partnership, prepared in accordance with GAAP, for each Fiscal Year, and any other financial statements reasonably requested by the holders of a majority of the outstanding Series A Units or the holders of a majority of the outstanding Series B Units. No later than one-hundred and ten (110) days after the end of each Fiscal Year, the General Partner shall furnish to the holders of a majority of the outstanding Series A Units and the holders of a majority of the outstanding Series B Units (or to such former Partner’s legal representative, as applicable) the following items: (a) a balance sheet of the Partnership as of the end of the Fiscal Year; (b) statements of operations of the Partnership as of the end of the Fiscal Year; and (c) a statement of the Partners’ equity interests in the Partnership and cash flow for such Fiscal Year, in each case, prepared in accordance with GAAP together with the auditors’ report thereon indicating that the audit was performed in accordance with GAAP. No later than forty (40) days after the end of each Fiscal Quarter, the General Partner shall furnish to the holders of a majority of the outstanding Series A Units and the holders of a majority of the outstanding Series B Units an unaudited balance sheet, an unaudited statement of operations and an unaudited statement of cash flow of the Partnership as of the end of such Fiscal Quarter.

Section 3.4 Tax Information. The General Partner shall use commercially reasonable efforts to prepare and mail, deliver by fax, email or other electronic means or otherwise make available to each Limited Partner (and each other Person that was a Limited Partner during such Fiscal Year or its legal representatives) within one hundred eighty (180) days after the end of each Fiscal Year, or as soon as practicable thereafter, U.S. Internal Revenue Service Schedule K-1, "Partner's Share of Income, Deductions, Credits, etc.", or any successor schedule or form, for such Person.

Section 3.5 Reliance on Accountants. All decisions as to accounting matters, except as specifically provided to the contrary herein, shall be made by the General Partner, to the extent consistent with the terms of this Agreement, in accordance with GAAP and procedures applied in a consistent manner. The General Partner may in good faith rely upon the advice of the Partnership's accountants as to whether such decisions are in accordance with GAAP and procedures applied in a consistent manner.

Section 3.6 Tax Matters Partner; Certain Expenses.

(a) The General Partner shall designate an entity to serve as (i) the tax matters partner as defined in Code Section 6231(a)(7) prior to the amendment by the Bipartisan Budget Act of 2015 and (ii) the partnership representative as defined in Code Section 6223(a) (the tax matters partner or the partnership representative, as applicable, the "TMP") with respect to operations conducted by the Partnership pursuant to this Agreement. The initial TMP shall be Cantor Commercial Real Estate Investor, L.P. The Partnership shall make such elections pursuant to the provisions of the Code, enter into such settlement agreements or closing agreements, and conduct and settle any audits or other tax proceedings in such a manner as the TMP deems appropriate; provided that, in the case of any such election, agreement or audit or other tax proceeding that is material, no such election shall be made, no such agreement shall be entered into and no such audit or other tax proceeding shall be settled, without the consent of the holders of a majority of the outstanding Series A Units or the holders of a majority of the outstanding Series B Units (such consent not to be unreasonably withheld, delayed or conditioned) if such election or agreement would adversely and disproportionately affect the holders of the Series A Units relative to the holders of the Series B Units or would adversely and disproportionately affect the holders of the Series B Units relative to the holders of Series A Units, respectively. The TMP may engage one or more tax advisors.

(b) The Partnership shall indemnify and reimburse the TMP for all expenses, including legal and accounting fees, claims, liabilities, losses and damages incurred by the TMP in connection with any administrative or judicial proceeding with respect to the tax liability of the Partners, in connection with any audit of the Partnership's U.S. federal income tax returns, or otherwise in connection with the performance of any of its duties hereunder, except to the extent such expenses, claims, liabilities, losses and damages are determined in a judgment by a court of competent jurisdiction to have been attributable to the TMP's fraud, gross negligence or willful misconduct. The payment of all such expenses that are then due and payable and to which the indemnification applies, shall be made before any distributions pursuant to Article VI. The taking of any action and the incurring of any expense by the TMP in connection with any such proceeding or audit, or otherwise in connection with the performance of any of its duties hereunder, except to the extent required by law and subject to Section 3.6(a), is a matter within the sole and absolute discretion of the TMP and the provisions on limitations of liability of the General Partner and indemnification set forth in Article VIII shall be fully applicable to the TMP.

Section 3.7 Fiscal Year. The fiscal year (the “ **Fiscal Year** ”) of the Partnership shall be the same as its taxable year and shall be the period ending on December 31 of each year, or such other taxable year as the Code may require or such other period as the General Partner may designate as the taxable year of the Partnership, consistent with the requirements of the Code.

Section 3.8 Partnership Classification. The Partnership shall not elect to be treated other than as a partnership for U.S. federal income tax purposes, unless approved by the General Partner with the consent of the holders of a majority of the outstanding Series A Units and the holders of a majority of the outstanding Series B Units (with each such consent not to be unreasonably withheld, delayed or conditioned).

Section 3.9 Safe Harbor Election. The General Partner is authorized to cause the Partnership to make an election to value any “profits interest” granted in consideration for services to the Partnership (a “ **Profits Interest** ”), including, potentially the interests of the General Partner in the Partnership, at liquidation value (the “ **Safe Harbor Election** ”) as the same may be permitted pursuant to or in accordance with the finally promulgated successor rules to Proposed Treasury Regulations Section 1.83-3(l) and IRS Notice 2005-43 whether promulgated in the form of Treasury Regulations, revenue rulings, revenue procedure notices and/or other IRS guidance (collectively, the “ **Proposed Rules** ”). Any such Safe Harbor Election shall be binding on the Partnership and on all of the Partners with respect to all transfers of the Profits Interest thereafter made while a Safe Harbor Election is in effect. Each Partner, by signing this Agreement or by accepting a transfer of an interest in the Partnership, agrees to comply with all requirements of the Safe Harbor Election with respect to the General Partner’s Profits Interest while the Safe Harbor Election remains effective. The General Partner is authorized, without the consent of any other Partner, to amend this Agreement as necessary to comply with the Proposed Rules or any rule, including the allocation provisions of this Agreement, in order to provide for a Safe Harbor Election and the ability to maintain or revoke the same, and shall have the authority to execute any such amendment by and on behalf of each Partner; provided, however, that the General Partner shall not make any such amendments which could have an adverse and disproportionate effect on any Partner without the prior written consent of such Partner. Each Partner agrees to cooperate with the General Partner to perfect and maintain any Safe Harbor Election, and to timely execute and deliver any documentation with respect thereto reasonably requested by the General Partner.

Section 3.10 Tax Acknowledgments. Each Partner that is a tax-exempt Person in the United States acknowledges that it is expected to be allocated “unrelated business taxable income” within the meaning of Sections 511-514 of the Code (“ **UBTI** ”) by the Partnership. Each Partner that is a foreign Person acknowledges that it is expected to be allocated income that is or is deemed to be effectively connected with a U.S. trade or business under the Code and the Treasury Regulations (“ **ECI** ”) by the Partnership. Neither the General Partner nor the Partnership shall be liable for the recognition of any UBTI or ECI by a Partner with respect to its Equity Interest, and each Partner acknowledges that some or all of its income and gains from or with respect to the Partnership may be UBTI or ECI.

Section 3.11 Partner Representations. Each Partner shall furnish the Partnership with any representations and forms as shall be reasonably needed, including where such representations and forms are needed due to changes in law made after the date hereof (a) to assist the Partnership and/or any Subsidiary in determining the extent of, and in fulfilling, its withholding, reporting or other tax obligations, (b) as will permit payments or allocations of income made to or by the Partnership and/or any Subsidiary to be made without withholding or at a reduced rate of withholding, or (c) in order to reduce the amount of taxes borne by the Partnership and/or any Subsidiary. In addition, each Partner (i) represents and warrants that any such information and forms it furnishes (except with respect to any such information that was provided to such Partner, or that is based upon incorrect information that was provided to such Partner, by the Partnership) are and at all times shall be true, correct and complete, and (ii) agrees to promptly update any such information or forms if at any time such Partner becomes aware that such previously provided information or forms are no longer true, correct and complete.

ARTICLE IV

PARTNERS; PARTNERSHIP INTERESTS

Section 4.1 Partners. The Partnership shall have (a) a General Partner and (b) one or more Limited Partners (including Regular Limited Partners and Special Voting Limited Partners). Schedule A sets forth the name and address of the Partners. Schedule A shall be amended by the General Partner to reflect any change in the identity or address of the Partners in accordance with this Agreement. Each Person admitted to the Partnership as a Partner pursuant to this Agreement shall be a partner of the Partnership until such Person ceases to be a Partner in accordance with the provisions of this Agreement.

Section 4.2 Partnership Interests

(a) Generally. The Equity Interests of the Partners in the Partnership shall be divided into two classes: (i) a General Partnership Interest; and (ii) Limited Partnership Interests (including Regular Limited Partnership Interests and Special Voting Limited Partnership Interests). The General Partnership Interest and the Limited Partnership Interests shall consist of, and be issued as, Units and capital in the Partnership. The Units may be divided into one (1) or more classes or series, with each class or series having the rights, obligations and privileges set forth in this Agreement. As of the Closing Date, the Partnership shall have four (4) series of Units outstanding: the Series A Units and the Series B Units (which shall be associated with the Regular Limited Partnership Interests), the Special Voting Limited Partnership Units (which shall be associated with the Special Voting Limited Partnership Interests) and the General Partner Units (which shall be associated with General Partnership Interests). Ownership of a Unit (or any fractional interest thereof) shall not entitle a Partner to call for a partition or division of any property of the Partnership or for any accounting. No Partner shall be entitled to receive any interest on any Capital Contributions to the Partnership. Any Units repurchased by or otherwise transferred to the Partnership or otherwise forfeited or cancelled shall be cancelled and thereafter deemed to be authorized but unissued, and may be subsequently issued as Units for all purposes hereunder in accordance with this Agreement.

(b) Issuance of Additional Units. The Partnership, without the consent of any Partner other than the General Partner, is hereby authorized to accept additional Capital Contributions and to issue additional Units of existing classes or series or Units of new classes and series of Units; provided that the Partnership shall not issue (i) additional Special Voting Limited Partnership Units without the prior written consent of the holders of a majority of the outstanding Special Voting Limited Partnership Units prior to such issuance; or (ii) additional General Partner Units without the prior written consent of the holders of a majority of the outstanding General Partner Units prior to such issuance; provided, further, that, without the consent of the holders of a majority of the Series A Units and the holders of a majority of the Series B Units, the Partnership shall not issue additional Units to the extent such issuance would materially and negatively affect the existing terms of this Agreement setting forth the allocation of economic rights between the Series A Units as a class, on the one hand, and the Series B Units as a class, on the other hand (excluding any such effect resulting solely from the additional capital received by the Partnership in connection with the issuance of such Units). Upon the issuance of any Units in accordance with this Section 4.2(b), the General Partner is authorized, without the consent of any other Partner, to amend this Agreement to reflect such issuance, to establish the Units to be included in each such class or series and to fix the relative rights, obligations, preferences and limitations of the Units of each such class or series.

(c) General Partnership Interest. The Partnership shall have one General Partnership Interest, which shall be represented by one General Partner Unit. The General Partner Unit shall be non-economic, and shall not entitle its holder to any allocation of profits or losses of the Partnership or distributions, except as otherwise expressly set forth in this Agreement.

(d) Limited Partnership Interests. The Partnership shall have one or more Limited Partnership Interests. There shall be two types of Limited Partnership Interests: (i) Regular Limited Partnership Interests; and (ii) Special Voting Limited Partnership Interests. As of the Closing Date, the Regular Limited Partnership Interests shall be represented by the Series A Units and the Series B Units, and the Special Voting Limited Partnership Interests shall be represented by the Special Voting Limited Partnership Units. Each of the Series A Units and the Series B Units shall be economic, and shall entitle its holder to the allocation of profits and losses of the Partnership as described in Article V of this Agreement and the distributions as described in Article VI of this Agreement. The Special Voting Limited Partnership Units shall be non-economic, and shall not entitle its holder to any allocation of profits or losses of the Partnership or distributions, except as otherwise expressly set forth in this Agreement.

Section 4.3 Requirements for Admission as Limited Partner. Each Person desiring to become a Limited Partner shall execute and deliver to the General Partner a subscription or other agreement, which shall provide, among other things, certain representations, warranties and covenants required by the Partnership, and such other documents as shall be deemed appropriate by the General Partner in its sole and absolute discretion (each such agreement, a “**Subscription Agreement**”). Under the Subscription Agreement and such other documents, such subscriber shall, subject to acceptance of its subscription by the General Partner, execute and agree to be bound by this Agreement.

Section 4.4 Partner Withdrawal Rights. No Partner shall be permitted to withdraw profits, gains or capital from the Partnership prior to liquidation without the prior written approval of the General Partner, which approval may not be unreasonably withheld.

ARTICLE V

CAPITAL ACCOUNTS AND ALLOCATIONS

Section 5.1 Capital Accounts.

(a) A separate capital account (each, a “**Capital Account**”) shall be maintained for each Partner in accordance with the rules of Treasury Regulations Section 1.704-1(b)(2)(iv), and this Section 5.1 shall be interpreted and applied in a manner consistent therewith.

(b) The Partnership may adjust the Capital Accounts of the Partners in accordance with the principles set forth in Treasury Regulations Section 1.704-1(b)(2)(iv)(f) to reflect revaluations of Partnership property to its gross fair market value as of immediately before such times as contemplated or permitted pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(f) (and the Partnership generally shall so adjust the Capital Account of the Partners unless the General Partner determines otherwise). In the event that the Capital Accounts of the Partners are so adjusted in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(f) to reflect revaluations of Partnership property, (a) the Capital Accounts of the Partners shall be adjusted in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(g) for allocations of depreciation, depletion, amortization and gain or loss, as computed for book purposes, with respect to such property, (b) the Partners’ distributive shares of depreciation, depletion, amortization and gain or loss, as computed for tax purposes, with respect to such property shall be determined so as to take account of the variation between the adjusted tax basis and book value of such

property in the same manner as under Code Section 704(c), and (c) the amount of upward and/or downward adjustments to the book value of the Partnership property shall be treated as income, gain, deduction and/or loss for purposes of applying the allocation provisions of this Article V. In the event that Code Section 704(c) applies to Partnership property, the Capital Accounts of the Partners shall be adjusted in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(g) for allocations of depreciation, depletion, amortization and gain and loss, as computed for book purposes, with respect to such property.

Section 5.2 Allocation of Net Profits and Net Losses.

(a) Allocation of Net Profits. Except as otherwise provided in Section 5.4 and Section 5.5, and subject to the other provisions of this Article V, Net Profits (or items thereof) for any taxable year (or other taxable period) shall be allocated among the Capital Accounts of the Partners as follows:

(i) *First*, to the Partners so as to reverse all allocations of Net Losses (or items thereof) allocated to their respective Capital Accounts for any prior taxable year (or other prior taxable period) pursuant to Section 5.2(b) (to the extent not previously reversed pursuant to this Section 5.2(a)(i)), in the reverse priority of the respective amounts of Net Losses (or items thereof) so allocated;

(ii) *Second*, to the Limited Partners that are holders of Series A Units, on a *pro rata* basis in accordance with the number of their respective Series A Units, until such Limited Partners have collectively been allocated for such taxable year (or other taxable period) pursuant to this Section 5.2(a)(ii) an aggregate amount equal to the BGC Preferred Return Amount for such taxable year;

(iii) *Third*, if the aggregate amount of Net Profits (or items thereof) allocated to the Limited Partners that are holders of Series A Units for all periods prior to such taxable year (or such other taxable period) pursuant to Section 5.2(a)(ii) is less than the sum of the BGC Preferred Return Amounts of each prior taxable year (any such shortfall, the “**BGC Shortfall Amount**”), to the Limited Partners that are holders of Series A Units, on a *pro rata* basis in accordance with the number of their respective Series A Units, until such Limited Partners have collectively been allocated pursuant to this Section 5.2(a)(iii) an aggregate amount equal to the BGC Shortfall Amount;

(iv) *Fourth*, to the Limited Partners that are holders of Series B Units, on a *pro rata* basis in accordance with the number of their respective Series B Units, until such Limited Partners have collectively been allocated for such taxable year (or other taxable period) pursuant to this Section 5.2(a)(iv) an aggregate amount equal to the CF Preferred Return Amount for such taxable year;

(v) *Fifth*, if the aggregate amount of Net Profits (or items thereof) allocated to the Limited Partners that are holders of Series B Units for all periods prior to such taxable year (or such other taxable period) pursuant to Section 5.2(a)(iv) is less than the sum of the CF Preferred Return Amounts of each prior taxable year (any such shortfall, the “**CF Shortfall Amount**”), to the Limited Partners that are holders of Series B Units, on a *pro rata* basis in accordance with the number of their respective Series B Units, until such Limited Partners have collectively been allocated pursuant to this Section 5.2(a)(v) an aggregate amount equal to the CF Shortfall Amount; and

(vi) *Sixth*, (A) to the Limited Partners that are holders of Series A Units, on a *pro rata* basis in accordance with the number of their respective Series A Units, until such Limited Partners have collectively been allocated for such taxable year (or other taxable period) pursuant to Section 5.2(a)(ii) and this Section 5.2(a)(vi) an aggregate amount equal to the product of (I) sixty percent (60%) of the Gross Percentage Return on Capital for such taxable year multiplied by (II) the BGC Investment Amount as of the end of such taxable year (or other taxable period) (it being understood that, for purposes of calculating the Aggregate Investment Amount, the BGC Investment Amount or the CF Investment Amount as of the end of such taxable year (or other taxable period), none of Aggregate Investment Amount, the BGC Investment Amount or the CF Investment Amount shall include any amounts of Net Profits (or items thereof) or Net Losses (or item thereof) previously allocated pursuant to this Section 5.2 for such taxable year (or such other taxable period)); and (B) to the Limited Partners that are holders of Series B Units, on a *pro rata* basis in accordance with the number of their respective Series B Units, any remaining Net Profits for such taxable year (or other taxable period).

(b) Allocation of Net Losses. Except as otherwise provided in Section 5.4 and Section 5.5, and subject to the other provisions of this Article V, including Section 5.7, Net Losses (or items thereof) for any taxable year (or other taxable period) shall be allocated to the Capital Accounts of the Partners as follows:

(i) *First*, to the Limited Partners that are holders of Series A Units or Series B Units, on a *pro rata* basis in accordance with the number of their respective Series A Units and Series B Units, an amount equal to all Net Profits (or items thereof) allocated to their respective Capital Accounts for any prior taxable year (or other prior taxable period) pursuant to Section 5.2(a)(vi) (less any amount allocated to such Limited Partners pursuant to this Section 5.2(b)(i) in any prior taxable year (or other prior taxable period));

(ii) *Second*, to the Limited Partners that are holders of Series B Units, on a *pro rata* basis in accordance with the number of their respective Series B Units, an amount equal to all Net Profits (or items thereof) allocated to their respective Capital Accounts for any prior taxable year (or other prior taxable period) pursuant to Section 5.2(a)(iv) or Section 5.2(a)(v) (less any amount allocated to such Limited Partners pursuant to this Section 5.2(b)(ii) in any prior taxable year (or other prior taxable period));

(iii) *Third*, to the Limited Partners that are holders of Series A Units, on a *pro rata* basis in accordance with the number of their respective Series A Units, an amount equal to all Net Profits (or items thereof) allocated to their respective Capital Accounts for any prior taxable year (or other prior taxable period) pursuant to Section 5.2(a)(ii) or Section 5.2(a)(iii) (less any amount allocated to such Limited Partners pursuant to this Section 5.2(b)(iii) in any prior taxable year (or other prior taxable period));

(iv) *Fourth*, to the Limited Partners that are holders of Series B Units, on a *pro rata* basis in accordance with the number of their respective Series B Units, until such Limited Partners have collectively been allocated for such taxable year (or other taxable period) pursuant to this Section 5.2(b)(iv) an aggregate amount equal to \$36.67 million for such taxable year (or, in the case of a taxable period that is less than a taxable year, such \$36.67 million proportionately reduced to reflect the proportion of a taxable year represented by such taxable period);

(v) *Fifth*, (A) to the Limited Partners that are holders of Series A Units, on a *pro rata* basis in accordance with the number of their respective Series A Units, an amount equal to the BGC Investment Percentage of any remaining Net Losses (or items thereof) for such taxable year (or other taxable period); and (B) to the Limited Partners that are holders of Series B Units, on a *pro rata* basis in accordance with the number of their respective Series B Units, an amount equal to the CF Investment Percentage of any remaining Net Losses (or items thereof) for such taxable year (or other taxable period); and

(vi) *Sixth*, to the General Partner, any Net Losses (or items thereof) that may not be allocated to any of the Limited Partners that are holders of Series A Units or Series B Units pursuant to this Section 5.2(b) by reason of the limitation set forth in Section 5.7.

(c) The General Partner will supervise the Capital Account allocations (including the allocation of Net Profits and the allocation of Net Losses) and the allocation of items of income, gain, loss and deduction for tax purposes among the Partners by the Partnership's accountants in accordance with this Agreement. These determinations, reasonably made in good faith by the General Partner (after reasonable consultation with the Partnership's tax advisors), will be final and binding on all Partners (absent manifest error).

Section 5.3 Allocations in Respect of Section 704(c) Property. In accordance with Sections 704(b) and 704(c) of the Code and the Treasury Regulations thereunder, income, gain, loss and deduction with respect to any property contributed to the capital of the Partnership shall, solely for U.S. federal income tax purposes, be allocated among the Partners so as to take into account any variation between the adjusted basis of such property to the Partnership for U.S. federal income tax purposes and the initial Gross Asset Value of such property using the "traditional method" (without "curative allocations") set forth in Treasury Regulations Section 1.704-3(b) (or such other method provided for under Section 704(c) of the Code and the Treasury Regulations promulgated thereunder as the General Partner may determine). If the Gross Asset Value of any Partnership property is adjusted as described in the definition of "Gross Asset Value," subsequent allocations of income, gain, loss and deduction with respect to such property shall take account of any variation between the adjusted basis of such property for U.S. federal income tax purposes and the Gross Asset Value of such property in the manner prescribed under Sections 704(b) and 704(c) of the Code and the Treasury Regulations thereunder using the "traditional method" (without "curative allocations") set forth in Treasury Regulations Section 1.704-3(b) (or such other method provided for under Section 704(c) of the Code and the Treasury Regulations promulgated thereunder as the General Partner may determine).

Section 5.4 Minimum Gain Chargebacks and Non-Recourse Deductions.

(a) Notwithstanding any other provisions of this Agreement, in the event there is a net decrease in Partner Minimum Gain during a taxable year, the Partners shall be allocated items of income and gain in accordance with Treasury Regulations Section 1.704-2(f). For purposes of this Agreement, any Partner's share of Partner Minimum Gain shall be determined in accordance with Treasury Regulations Section 1.704-2(g)(1). This Section 5.4(a) is intended to comply with the minimum gain charge-back requirement of Treasury Regulations Section 1.704-2(f) and shall be interpreted and applied in a manner consistent therewith.

(b) Non-recourse deductions for any taxable year shall be allocated to the Partners in proportion to the allocations for such taxable year of Net Profits or Net Losses, as applicable, under Section 5.2. Partner non-recourse deductions for any taxable year shall be allocated to the Partner that bears the economic risk of loss with respect to the Partner non-recourse Debt to which such Partner Non-recourse deductions are attributable in accordance with Treasury Regulations Section 1.704-2(i)(1). " **Non-recourse deductions** " shall have the meaning set forth in Treasury Regulations Section 1.704-2(b)(1); " **Partner Non-recourse deductions** " shall have the meaning set forth in Treasury Regulations Section 1.704-2(i)(1); and " **Partner Non-recourse Debt** " shall have the meaning set forth in Treasury Regulations Section 1.704-2(b)(4).

(c) Notwithstanding any other provisions of this Agreement, in the event there is a net decrease in Partner Minimum Gain attributable to a Partner Non-recourse Debt during any taxable year, each Partner that has a share of such Partner Minimum Gain shall be allocated items of income and gain in accordance with Treasury Regulations Section 1.704-2(i). For purposes of this Agreement, any Partner's share of any Partner Minimum Gain shall be determined in accordance with Treasury Regulations Section 1.704-2(i)(4). This Section 5.4(c) is intended to comply with Treasury Regulations Section 1.704-2(i) and shall be interpreted and applied in a manner consistent therewith. " **Partner Minimum Gain** " has the same meaning as the term "partner non-recourse debt minimum gain" set forth in Treasury Regulations Section 1.704-2(i)(2).

Section 5.5 Qualified Income Offset. Any Partner that unexpectedly receives an adjustment, allocation or distribution described in Treasury Regulations Section 1.704-1(b)(2)(ii)(*d*) (*4*), (*5*) or (*6*) that causes or increases a deficit balance in such Partner's Capital Account (increased by the amount of such Partner's obligation to restore a deficit in such Partner's Capital Account, including any deemed obligation pursuant to the penultimate sentences of Treasury Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5)) shall be allocated items of income and gain in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations, such deficit balance as quickly as possible. This Section 5.5 is intended to comply with the alternate test for economic effect set forth in Treasury Regulations Section 1.704-1(b)(2)(ii)(*d*) and shall be interpreted and applied in a manner consistent therewith.

Section 5.6 Reserved.

Section 5.7 Loss Limitation. Net Losses allocated pursuant to Section 5.2(b) shall not exceed the maximum amount of Net Losses that can be allocated without causing any Partner to have an Adjusted Capital Account Deficit at the end of any taxable year (or increase any existing Adjusted Capital Account Deficit). In the event that some but not all of the Partners would have an Adjusted Capital Account Deficit (or an increase in any existing Adjusted Capital Account Deficit) as a consequence of an allocation of Net Losses pursuant to Section 5.2(b), the limitation set forth in this Section 5.7 shall be applied on a Partner-by-Partner basis and Net Losses not allocable to a Partner under Section 5.2(b) as a result of such limitation shall be allocated to the other Partners pursuant to Section 5.2(b), in accordance with the positive balances in such other Partner's respective Capital Accounts so as to allocate the maximum permissible Net Losses under Section 5.2(b) to each Partner otherwise entitled to allocations of Net Losses pursuant to such Section under Treasury Regulations Section 1.704-1(b)(2)(ii)(d).

Section 5.8 Code Section 704(b) Compliance. The allocation provisions contained in this Article V are intended to comply with Code Section 704(b) and the Treasury Regulations promulgated thereunder, and shall be interpreted and applied in a manner consistent therewith. To the extent that the regulatory allocations described in Section 5.4 and Section 5.5 are inconsistent with the intent of this Agreement, the General Partner shall have the discretion to disregard such allocations. The General Partner in its reasonable discretion may modify the allocations in this Article V and make such special allocations or other Capital Account adjustments as it determines are necessary or appropriate to comply with Code Section 704 and such regulations.

Section 5.9 Corresponding Allocations of Taxable Income and Loss. Any election or other decision relating to the allocation of Partnership items of income, gain, loss, deduction or credit for U.S. federal income tax purposes shall be made by the General Partner (after reasonable consultation with the Partnership's tax advisors) in a manner that reasonably reflects the intent of this Agreement and any such

election or decision so made shall be final and binding on all Partners, absent manifest error. It is intended that, for U.S. federal income tax purposes, all items of income, gain, loss, deduction or credit shall be allocated to the Partners in the same manner as are Net Profits and Net Losses; provided, however, that (a) if the book value of any property of the Partnership differs from its adjusted tax basis or (b) to the extent there are liabilities assumed by the Partnership with respect to property contributed by the Partnership that have not been taken into account for tax purposes, then items of income, gain, loss, deduction or credit, for tax purposes, shall be allocated among the Partners in a manner that takes into account the variation between the adjusted tax basis of the property for tax purposes and its book value using the “traditional method” (without “curative allocations”) set forth in Treasury Regulations Section 1.704-3(b) (or such other method provided for under Section 704(c) of the Code and the Treasury Regulations promulgated thereunder as the General Partner may determine).

Section 5.10 Allocation Conventions.

(a) Except as determined to be necessary by the General Partner to carry out the purposes of this Agreement or except as otherwise required by applicable law, all allocations of Net Profits and Net Losses under this Article V shall be made as of the last day of any taxable year (or other taxable period).

(b) Allocations of Net Profits and Net Losses under this Article V in any taxable year (or other taxable period) in which the interest of a Partner in the Partnership varies over the course of a taxable year (or other taxable period) shall be made so as to take account of the varying interests of the Partners in the Partnership in such manner as the General Partner shall reasonably determine.

ARTICLE VI DISTRIBUTIONS

Section 6.1 Distributions.

(a) Subject to the other provisions of this Article VI, the Partnership shall distribute to the Partners from the Partners’ Capital Accounts, as promptly as practicable after the end of each Distribution Period, an aggregate amount equal to the Available Cash for such Distribution Period (any such distribution, a “**Distribution**”).

(b) With respect to any Distribution, (i) an amount equal to the product of (A) the BGC Investment Percentage as of the end of such Distribution Period, *multiplied by* (B) the aggregate Distribution for such Distribution Period, shall be distributed to the Limited Partners that are holders of the Series A Units, on a *pro rata* basis in accordance with their respective positive Capital Account balances, and (ii) an amount equal to the product of (A) the CF Investment Percentage as of the end of such Distribution Period, *multiplied by* (B) the aggregate Distribution for such Distribution Period, shall be distributed to the Limited Partners that are holders of the Series B Units, on a *pro rata* basis in accordance with their respective positive Capital Account balances.

(c) The General Partner shall have the right to change the manner of any Distribution to reflect the intended allocations of Net Profits and Net Losses set forth in Article V.

Section 6.2 Distributions Upon an Extraordinary Transaction or Liquidation. Subject to the other provisions of this Article VI, upon the consummation of an Extraordinary Transaction or a liquidation of the Partnership in accordance with Article XII, all cash amounts received by the Partnership in connection with such Extraordinary Transaction or liquidation that are available for distribution shall

be distributed by the Partnership, at such time (unless otherwise determined by the General Partner in its sole and absolute discretion), to Limited Partners that are holders of Series A Units and Limited Partners that are holders of Series B Units (treated for this purpose as a single class) on a *pro rata* basis in accordance with each such Limited Partner's respective positive Capital Account balances (determined after giving effect to all allocations of items of income, gain, loss and deduction resulting from, and for all periods prior to, such Extraordinary Transaction or liquidation).

Section 6.3 Withholding and Other Tax Liabilities.

(a) The Partnership shall at all times be entitled to make payments with respect to any Partner in amounts required to discharge any obligation of the Partnership to withhold from a distribution or make payments to any governmental authority with respect to any foreign, federal, state or local tax liability of such Partner arising as a result of such Partner's interest in the Partnership (a "**Withholding Payment**"). Any Withholding Payment made from funds withheld upon a distribution will be treated as distributed to such Partner for all purposes of this Agreement. Any other Withholding Payment shall be repaid to the Partnership, as determined by the General Partner in its sole and absolute discretion, in whole or in part, (i) upon demand by the Partnership or (ii) by deduction from any distributions payable to such Partner pursuant to this Agreement (with the amount of such deduction treated as distributed to the Partner). Each Partner does hereby agree to indemnify and hold harmless the Partnership and the General Partner from and against any and all liability with respect to Withholding Payments required on behalf of, or with respect to, such Partner, except with respect to liabilities resulting solely from the fraud, bad faith, gross negligence or willful misconduct of the General Partner.

(b) In the event that the distributions or proceeds to the Partnership from an investment are reduced on account of taxes withheld at the source or any taxes are otherwise required to be paid by the Partnership or any of its Subsidiaries or any entity in which it invests, and such taxes are imposed on or with respect to one or more, but not all of the Partners in the Partnership, the amount of the reduction or payment shall be borne by the relevant Partners and treated as if it were paid by the Partnership as a Withholding Payment with respect to such Partners pursuant to Section 6.3(a). Taxes imposed on the Partnership or its Subsidiaries (or any other entity in which it invests) where the rate of tax varies depending on characteristics of the Partners shall be treated as taxes imposed on or with respect to the Partners for purposes of this Section 6.3. This Section 6.3 and the other provisions of this Agreement shall be applied consistently with the requirements of Treasury Regulations Section 1.704-1.

(c) Withholding, income and similar taxes paid by or imposed on the Partnership and/or any Subsidiary in respect of a particular investment shall be treated as having been distributed to a particular Partner to the extent any of such taxes are, in the reasonable judgment of the General Partner, attributable to the failure of such Partner to comply with the provisions of Section 3.11 or on account of the incompleteness, inaccuracy, obsolescence, expiration or invalidity of any documentation delivered by such Partner pursuant to Section 3.11, or delivered on behalf of a Partner pursuant to Section 13.1.

Section 6.4 Tax Distributions. Notwithstanding anything to the contrary in this Agreement, but subject in each case to Section 6.5:

(a) On or prior to each Estimated Tax Due Date, the Partnership shall make a cash distribution to each Partner in an aggregate amount equal to such Partner's Quarterly Tax Distribution Amount for the Fiscal Quarter with respect to which quarterly installments of estimated tax are due on such Estimated Tax Due Date (each such distribution, a "**Quarterly Tax Distribution**").

(b) As promptly as practicable after the end of each Fiscal Year, the Partnership shall make a cash distribution to each Partner in an aggregate amount equal to such Partner's Year End Tax Distribution Amount for such Fiscal Year.

(c) All amounts distributed pursuant to Section 6.4(a) and Section 6.4(b) shall be treated as an advance against and shall be deducted from the next succeeding distribution made (or that would otherwise be made) to such Partner with respect to such Partner's Units (whether pursuant to Section 6.1, Section 6.2, Section 9.5, Section 12.2 or otherwise), and if necessary, from any succeeding distributions thereafter, until such amounts have been fully deducted from such distribution(s). Any such amounts applied as an advance against one or more succeeding distributions pursuant to the immediately preceding sentence shall be treated for purposes of this Agreement as having been distributed under those provisions of this Agreement under which distributions would have been made with respect to such Partner's Units but for the immediately preceding sentence.

Section 6.5 Limitations on Distributions. Notwithstanding any provision to the contrary contained in this Agreement, the Partnership and the General Partner, on behalf of the Partnership, shall not be required to make a distribution to a Partner on account of its interest in the Partnership if such distribution would violate the Act or any other applicable law.

ARTICLE VII MANAGEMENT

Section 7.1 Management by the General Partner.

(a) Except as expressly limited by the provisions of this Agreement, the General Partner (i) shall have the duty, responsibility, authority and power to manage and administer the affairs and business of the Partnership; (ii) shall, in its sole and absolute discretion, exercise all powers necessary, convenient or appropriate to carry out the purposes, conduct the business and exercise the powers of the Partnership, but subject to the limitations and restrictions expressly set forth herein; and (iii) shall have all of the powers, duties and obligations conferred by the Act on a general partner. Except as expressly limited by the provisions of this Agreement, the General Partner is authorized and empowered, on behalf and in the name of the Partnership, to carry out and implement, directly or through such agents and designees as the General Partner may appoint, such actions and execute such documents as the General Partner may deem necessary or advisable, or as may be incidental to or necessary for the conduct of the business of the Partnership. For purposes of this Article VII, references to the Partnership shall include its Subsidiaries, unless the context requires otherwise.

(b) The General Partner may appoint officers, managers or agents of the Partnership and its Subsidiaries and may delegate to such officers, managers or agents or any other person or body all or part of the powers, authorities, duties or responsibilities possessed by or imposed on the General Partner pursuant to this Agreement.

(c) The General Partner shall use reasonable best efforts to ensure that the Partnership is and continues throughout its term to be classified as a partnership (but not a publicly traded partnership) for U.S. federal income tax purposes.

Section 7.2 Role and Voting Rights of Limited Partners; Authority of Partners.

(a) Limitation on Role of Limited Partners. No Limited Partner shall have any right of control or management power over the business or other affairs of the Partnership as a result of its status as a Limited Partner except as otherwise expressly provided in this Agreement. No Limited Partner shall participate in the control of the Partnership's business in any manner that would, under the Act, subject such Limited Partner to any liability beyond those liabilities expressly contemplated hereunder, including holding himself, herself or itself out to third parties as a general partner of the Partnership; provided that any Limited Partner may be an employee of the Partnership or any of its Affiliates and perform such duties and do all such acts required or appropriate in such role, and no such performance or acts shall subject such Limited Partner to any liability beyond those liabilities expressly contemplated hereunder. Without limiting the generality of the foregoing, in accordance with, and to the fullest extent permitted by the Act, a Limited Partner (directly or through an Affiliate) (i) may consult with and advise the General Partner or any other Person with respect to any matter, including the business of the Partnership, (ii) may transact business with the General Partner or the Partnership, and (iii) may be an officer, director, partner or equityholder of the General Partner or have its Representatives serve as officers or directors of the General Partner without incurring additional liabilities to third parties.

(b) No Limited Partner Voting Rights. To the fullest extent permitted by the Act, the Limited Partners shall not have any voting rights under the Act, this Agreement or otherwise, and shall not be entitled to consent to, approve or authorize any actions by the Partnership or the General Partner, except in each case as otherwise expressly provided in this Agreement.

(c) Authority of Partners. No Limited Partner shall have any power or authority, in such Partner's capacity as a Limited Partner, to act for or bind the Partnership except to the extent that such Limited Partner is so authorized in writing prior thereto by the General Partner. Without limiting the generality of the foregoing, no Limited Partner, in such Partner's capacity as a Limited Partner, shall, except as so authorized by the General Partner, have any power or authority to incur any liability or execute any instrument, agreement or other document for or on behalf of the Partnership, whether in the Partnership's name or otherwise. Persons dealing with the Partnership are entitled to rely conclusively upon the power and authority of the General Partner. Each Limited Partner hereby agrees that, except to the extent provided in this Agreement and except to the extent that such Limited Partner shall be the General Partner, it will not participate in the management or control of the business and other affairs of the Partnership, will not transact any business for Partnership and will not attempt to act for or bind the Partnership.

Section 7.3 Removal and Replacement of the General Partner. Any General Partner may be removed at any time, with or without cause, by the holders of a majority of the outstanding Special Voting Limited Partnership Units, and the General Partner may resign from the Partnership for any reason; provided, however, that, as a condition to any such removal or resignation, (a) the holders of a majority of the outstanding Special Voting Limited Partnership Units shall first appoint another Person as the new General Partner; (b) such Person shall be admitted to the Partnership as the new General Partner (upon the execution and delivery of an agreement to be bound by the terms of this Agreement and such other agreements, documents or instruments requested by the resigning General Partner); and (c) such resigning or removed General Partner shall Transfer its entire General Partnership Interest to the new General Partner. The admission of the new General Partner shall be deemed effective immediately prior to the effectiveness of the resignation of the resigning General Partner. Upon removal of any General Partner, notwithstanding anything herein to the contrary, the General Partnership Interest shall be transferred to the Person being admitted as the new General Partner, simultaneously with admission and without the requirement of any action on the part of the General Partner being removed or any other Person. Effective immediately upon the Transfer of the General Partner's entire General Partnership Interest as provided in this Section 7.3 or Section 9.2(b), such Partner shall cease to have any interest in the profits, losses, assets, properties or capital of the Partnership with respect to such General Partnership Interest and shall cease to be the General Partner.

Section 7.4 Expense Reimbursement.

(a) All costs and expenses incurred in connection with the ongoing operation or management of the business of the Partnership or its Subsidiaries (including such operation or management by the General Partner or its Representatives) shall be borne by the Partnership or its Subsidiaries, as the case may be, including the following costs and expenses:

(i) the costs and expenses of maintaining the Partnership's (and its Subsidiaries') bank accounts or of any banks, custodians or depositories appointed for the safekeeping of the investments or other property of the Partnership or its Subsidiaries;

(ii) travel costs, fees and other costs and expenses incurred by the General Partner, the Partnership or their respective Representatives related to the investigation and evaluation of investment opportunities (including those not consummated), the acquisition, ownership, management, financing, refinancing, hedging or sale or valuation of loans or other assets, meetings with the Partners, taxes (and costs and expenses of the TMP, including attorneys' and accountants' fees and disbursements associated therewith), fees of auditors, counsel, third-party due diligence providers and consultants, custodial expenses, insurance, indemnification expenses, litigation expenses, costs and expenses associated with the preparation and distribution of documents; and

(iii) compensation of the employees (including officers) of the General Partner, the Partnership and its Subsidiaries (whether such employees are employed directly or leased from members of the BGC Partners Group or members of the Cantor Group) and related benefits costs and payroll taxes; and

(b) To the extent that any cost or expense to be borne by the Partnership are paid by the General Partner or its Affiliates (other than the Partnership and its Subsidiaries), the Partnership shall reimburse the General Partner or Affiliate, as the case may be, for all such cost and expense promptly upon request.

Section 7.5 Affiliated Transactions. The General Partner, acting in good faith, may enter, or cause the Partnership to enter, into arrangements, contracts or other transactions with any Affiliate of the General Partner, Cantor or BGC Partners for (a) the provision or receipt of accounting, legal, treasury, human resources, information technology, investor relations, office overhead and other administrative services pursuant to generally applicable intercompany services agreements, (b) investment advisory, investment banking, underwriting, valuation, risk management, financial advisory and similar services and (c) other matters to the extent on arm's length terms.

ARTICLE VIII

INDEMNIFICATION AND EXCULPATION

Section 8.1 Exculpation. Neither a General Partner nor any Affiliate or director or officer of a General Partner or any such Affiliate shall be personally liable to the Partnership or the Limited Partners for a breach of fiduciary duty as a General Partner or as an Affiliate or director or officer of a General Partner or any such Affiliate, except to the extent such exemption from liability or limitation thereof is not permitted under the Act as the same exists or may hereafter be amended. Any repeal or modification of the immediately preceding sentence shall not adversely affect any right or protection of such Person existing hereunder with respect to any act or omission occurring prior to such repeal or modification. A General Partner may consult with legal counsel, accountants, appraisers, management consultants,

investment bankers and other consultants and advisors selected by it and the opinion of any such Person as to matters which the General Partner reasonably believes to be within such Person's professional or expert competence shall be full and complete authorization and protection in respect of any action taken or suffered or omitted by the General Partner in good faith and in accordance with such opinion. A General Partner may exercise any of the powers granted to it by this Agreement and perform any of the obligations imposed on it hereunder either directly or by or through one or more agents, and the General Partner shall not be responsible for any misconduct or negligence on the part of any such agent appointed by the General Partner with due care.

Section 8.2 Indemnification.

(a) Each Person who was or is made a party or is threatened to be made a party to or is involved in any action, suit, or proceeding, whether civil, criminal, administrative or investigative (hereinafter a “ **proceeding** ”), by reason of the fact that he or she, or a Person of whom he or she is the legal representative, is or was or has agreed to become a General Partner, or any director or officer of the General Partner or of the Partnership, or is or was serving at the request of the Partnership as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee or agent or in any other capacity while surviving as a director, officer, employee or agent, shall be indemnified and held harmless by the Partnership to the fullest extent authorized by the General Corporation Law of the State of Delaware (the “ **DGCL** ”) as the same exists or may hereafter be amended (but, in the case of any such amendment, to the fullest extent permitted by law, only to the extent that such amendment permits the Partnership to provide broader indemnification rights than said law permitted the Partnership to provide prior to such amendment), as if the Partnership were a corporation organized under the DGCL, against all expense, liability and loss (including attorneys' fees, judgments, fines, amounts paid or to be paid in settlement, and excise taxes or penalties arising under ERISA) reasonably incurred or suffered by such Person in connection therewith and such indemnification shall continue as to a Person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that except as provided in Section 8.2(c), the Partnership shall indemnify any such Person seeking indemnification in connection with a proceeding (or part thereof) initiated by such Person only if such proceeding (or part thereof) was authorized by the General Partner. The right to indemnification conferred in this Section 8.2 shall be a contract right and shall include the right to be paid by the Partnership the expenses, including attorneys' fees, incurred in defending any such proceeding in advance of its financial disposition; provided, however, that if applicable law requires that the payment of such expenses incurred by a director or officer in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such Person while a director or officer, including service to an employee benefit plan) in advance of the final disposition of a proceeding shall be made only upon delivery to the Partnership of an undertaking by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified under this Section 8.2 or otherwise.

(b) To obtain indemnification under this Section 8.2, a claimant shall submit to the Partnership a written request, including therein or therewith such documentation and information as is reasonably available to the claimant and are reasonably necessary to determine whether and to what extent the claimant is entitled to indemnification. Upon written request by a claimant for indemnification pursuant to the first sentence of this Section 8.2(b), a determination, if required by applicable law, with respect to the claimant's entitlement thereto shall be made by the Board of Directors of the General Partner. If it is so determined that the claimant is entitled to indemnification, payment to the claimant shall be made within twenty (20) days after such determination.

(c) It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the Partnership) that the claimant has not met the standards of conduct which make it permissible under the DGCL as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Partnership to provide broader indemnification rights than it permitted the Partnership to provide prior to such amendment) for the Partnership to indemnify the claimant for the amount claimed if the Partnership were a corporation organized under the DGCL, but the burden of proving such defense shall be on the Partnership.

(d) The Partnership may, to the extent authorized from time to time by the General Partner, grant rights to indemnification, and rights to be paid by the Partnership the expenses incurred in defending any proceeding in advance of its final disposition, to any employee or agent of the Partnership to the fullest extent of the provisions of this Section 8.2 with respect to the indemnification and advancement of expenses of a General Partner or any directors and officers of the General Partner or of the Partnership.

(e) If any provision or provisions of this Section 8.2 shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (i) the validity, legality and enforceability of the remaining provisions of this Section 8.2 (including each portion of this Section 8.2 containing any such provision held to be invalid, illegal or unenforceable, that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (ii) to the fullest extent possible, the provisions of this Section 8.2 (including each such portion of this Section 8.2 containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

(f) Any notice, request or other communication required or permitted to be given to the Partnership under this Section 8.2 shall be in writing and either delivered in person or sent by telecopy, telex, telegram, overnight mail or courier service, or certified or registered mail, postage prepaid, return receipt requested, to the General Partner and shall be effective only upon receipt by the General Partner.

Section 8.3 Insurance. The Partnership may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Partnership or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Partnership would have the power to indemnify such Person against such expense, liability or loss under the DGCL if the Partnership were a corporation organized under the DGCL. To the extent that the Partnership maintains any policy or policies providing such insurance, each such director or officer, and each such agent or employee to which rights of indemnification have been granted as provided in Section 8.2, shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage thereunder for any such director, officer, employee or agent.

Section 8.4 Subrogation. In the event of payment of indemnification to a Person described in Section 8.2, the Partnership shall be subrogated to the extent of such payment to any right of recovery such Person may have and such Person, as a condition of receiving indemnification from the Partnership, shall execute all documents and do all things that the Partnership may deem necessary or desirable to perfect such right of recovery, including the execution of such documents necessary to enable the Partnership effectively to enforce any such recovery.

Section 8.5 No Duplication of Payments. The Partnership shall not be liable under this Article VIII to make any payment in connection with any claim made against a Person described in Section 8.2 to the extent such Person has otherwise received payment (under any insurance policy or otherwise) of the amounts otherwise payable as indemnity hereunder.

Section 8.6 Survival. This Article VIII shall survive any termination of this Agreement.

ARTICLE IX TRANSFERS OF EQUITY INTERESTS

Section 9.1 Transfers of Equity Interests Generally Prohibited. No Partner may Transfer or agree or otherwise commit to Transfer all or any portion of, or any of rights, title and interest in and to, its Equity Interest, except as permitted by the terms and conditions set forth in this Article IX. Schedule A shall be deemed to be amended from time to time to reflect any change in the Partners or Equity Interests as a result of any Transfer permitted by this Article IX.

Section 9.2 Permitted Transfers.

(a) Limited Partnership Interests. No Limited Partner may Transfer or agree or otherwise commit to Transfer all or any portion of, or any right, title and interest in and to, its Limited Partnership Interest (including any Regular Limited Partnership Interest and any Special Voting Limited Partnership Interest), except any such Transfer (i) pursuant to Section 9.2(c) or Section 9.5; (ii) by a member of the BGC Partners Group to another member of the BGC Partners Group; (iii) by a member of the Cantor Group to another member of the Cantor Group; or (iv) for which the General Partner shall have provided its prior written consent (such consent not to be unreasonably withheld); provided that, without the consent of the General Partner, no Limited Partner may Transfer or agree or otherwise commit to Transfer all or any portion of, or any right, title and interest in and to, its Limited Partnership Interest if the General Partner determines, in its sole discretion, that such Transfer would reasonably be expected to:

- (i) jeopardize the status of the Partnership as a partnership for United States federal income tax purposes or result in a termination of the Partnership under the Code;
- (ii) result in the Partnership being classified or treated as a publicly traded partnership for U.S. federal income tax purposes;
- (iii) cause a dissolution of the Partnership under the Act;
- (iv) cause the Partnership or any Subsidiary to be an “investment company” within the meaning of the 40 Act;
- (v) violate, or cause the Partnership to violate, any applicable law or regulation, including any applicable federal or state securities laws;
- (vi) cause the Partnership or any Subsidiary to have to make any filings or cause it to be subject to any reporting or other regulatory obligations to which it was not subject prior to such Transfer;
- (vii) cause the Partnership, any Subsidiary or any Partner to be in violation of any contract, financing (or other obligation legally binding upon any of them) or otherwise suffer any material adverse consequence which, in each case, has been identified by the General Partner as a violation or adverse consequence likely to occur as a result of such Transfer; or

(viii) cause the assets of the Partnership to be considered “plan assets” under ERISA.

(b) General Partnership Interest. The General Partner may not Transfer or agree or otherwise commit to Transfer all or any portion of, or any right, title and interest in and to, its General Partnership Interest, unless (i) to a new General Partner in accordance with Section 7.3, or (ii) with the prior written consent of the holders of a majority of the Special Voting Limited Partnership Units.

(c) Transfers from the BGC Partners Group to Affiliates. It is expressly understood that, as of the Closing Date, members of the Newmark Group shall be members of the BGC Partners Group. It is possible that the members of the Newmark Group shall cease to be members of the BGC Partners Group, including as a result of an initial public offering of common stock of Newmark, a distribution of all of the common stock in Newmark held by members of the BGC Partners Group, or a combination of the foregoing (the “**Newmark Separation**”). If (i) members of the BGC Partners Group shall transfer all of their Equity Interests in the Partnership to members of the Newmark Group (which they expressly shall be permitted to do under this Agreement), or all such Equity Interests in the Partnership are otherwise held by members of the Newmark Group, and (ii) the Newmark Separation occurs, then each reference to “BGC Partners” and the “BGC Partners Group” in this Agreement shall become references to “Newmark” and the “Newmark Group” to extent necessary to reflect such ownership of the Equity Interests in the Partnership by the members of the Newmark Group following the Newmark Separation.

Section 9.3 Admission as a Partner upon Transfer. Notwithstanding anything to the contrary set forth herein, a Transferee that has otherwise satisfied the requirements of Section 9.2 shall become a Partner, and shall be listed as a “Regular Limited Partner,” “Special Voting Limited Partner” or “General Partner” as applicable, on Schedule A, and shall be deemed to receive the Equity Interest being Transferred, in each case only at such time as such Transferee executes and delivers to the Partnership an agreement in which the Transferee agrees to be admitted as a Partner and bound by this Agreement and any other agreements, documents or instruments specified by the General Partner; provided, however, that if such Transferee is (a) at the time of such Transfer a Partner of the applicable class of Units being Transferred or (b) has previously entered into an agreement pursuant to which the Transferee shall have agreed to become a Partner and be bound by this Agreement (which agreement is in effect at the time of such Transfer), such Transferee shall not be required to enter into any such agreements unless otherwise determined by the General Partner.

Section 9.4 Transfer of Units and Capital with the Transfer of an Interest. Notwithstanding anything herein to the contrary, each Partner that Transfers an Equity Interest shall be deemed to have Transferred the entire Equity Interest, including the associated Units and Capital Account with respect to such Equity Interest, or, if a portion of an Equity Interest is being Transferred, each Partner that Transfers a portion of an Equity Interest shall specify the number of Units being so Transferred and such Transfer shall include a proportionate amount of such Partner’s Capital Account with respect to such Equity Interest, to the Transferee.

Section 9.5 Redemption.

(a) Optional Redemption by the Series A Limited Partners. At the option of the Limited Partners that hold a majority of the outstanding Series A Units delivered in writing to the Partnership not earlier than the fourth (4th) anniversary of the Closing Date, the Partnership shall redeem, on the date that is one (1) year following the date such option is exercised (or such other date as may be agreed by the Partnership and the Limited Partners that hold a majority of the outstanding Series A Units), all outstanding Series A Units in exchange for an aggregate amount in cash equal to the BGC Investment Amount, adjusted as of immediately prior to such redemption. Such aggregate amount will be paid to the Limited Partners that are holders of the Series A Units being redeemed, *pro rata in* accordance with their respective number of Series A Units.

(b) Early Redemption by the Partnership. At any time prior to the fifth anniversary of the Closing Date, at the option of the Limited Partners that hold a majority of the outstanding Series B Units, the Partnership shall have the right to redeem all outstanding Series A Units in exchange for an aggregate amount in cash equal to (a) the BGC Investment Amount, adjusted as of immediately prior to such redemption *plus* (b) if there shall be any BGC Shortfall Amount as of such redemption, an amount equal to such BGC Shortfall Amount as of such redemption. Such aggregate amount will be paid to the Limited Partners that are holders of the Series A Units being redeemed, *pro rata* in accordance with their respective number of Series A Units. To effect such a redemption, the Partnership shall provide a written notice to BGC Partners that the Partnership intends to effect the redemption at least five (5) days prior to such redemption.

(c) Redemption by the Partnership. At any time on or after the fifth anniversary of the Closing Date, at the option of the Limited Partners that hold a majority of the outstanding Series B Units, the Partnership shall have the right to redeem all outstanding Series A Units in exchange for an aggregate amount in cash equal to the BGC Investment Amount, adjusted as of immediately prior to such redemption. Such aggregate amount will be paid to the Limited Partners that are holders of the Series A Units being redeemed, *pro rata* in accordance with their respective number of Series A Units. To effect such a redemption, the Partnership shall provide a written notice to BGC Partners that the Partnership intends to effect the redemption at least five (5) days prior to such redemption.

(d) In the event of any redemption pursuant to this Section 9.5, any Net Profits (or items thereof) or any Net Losses (or items thereof) not previously allocated pursuant to Section 5.2 shall be allocated pursuant to Section 5.2 as of immediately prior to such redemption. No redemption pursuant to this Section 9.5 shall be considered an Extraordinary Transaction.

(e) Immediately following the closing of any redemption pursuant to this Section 9.5, the members of the BGC Partners Group shall no longer have any interest in (i) the Partnership or any of its Subsidiaries or (ii) any Capital Account.

Section 9.6 Legend. Each Partner agrees that any certificate issued to it to evidence its Equity Interests shall have inscribed conspicuously on its front or back the following legend:

THE PARTNERSHIP INTEREST IN CF REAL ESTATE FINANCE HOLDINGS, L.P. REPRESENTED BY THIS CERTIFICATE (INCLUDING ASSOCIATED UNITS AND CAPITAL) HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR REGISTERED OR QUALIFIED UNDER THE SECURITIES LAWS OF ANY STATE OR FOREIGN JURISDICTION, AND THIS PARTNERSHIP INTEREST MAY NOT BE TRANSFERRED, SOLD, ASSIGNED, PLEDGED, HYPOTHECATED, ENCUMBERED OR OTHERWISE DISPOSED OF, IN WHOLE OR IN PART, EXCEPT (A) EITHER (1) WHILE A REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND SUCH OTHER APPLICABLE REGISTRATIONS AND QUALIFICATIONS ARE IN EFFECT OR (2) PURSUANT TO AN AVAILABLE EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT (INCLUDING, IF APPLICABLE, REGULATION S

THEREUNDER) AND SUCH OTHER APPLICABLE LAWS AND (B) IF PERMITTED BY THE LIMITED PARTNERSHIP AGREEMENT OF CF REAL ESTATE FINANCE HOLDINGS, L.P., AS IT MAY BE AMENDED FROM TIME TO TIME, WHICH CONTAINS STRICT PROHIBITIONS ON TRANSFERS, SALES, ASSIGNMENTS, PLEDGES, HYPOTHECATIONS, ENCUMBRANCES OR OTHER DISPOSITIONS OF THIS PARTNERSHIP INTEREST OR ANY INTEREST THEREIN (INCLUDING ASSOCIATED UNITS AND CAPITAL).

Section 9.7 Effect of Transfer Not in Compliance with this Article. Any purported Transfer of all or any part of a Partner's Interest, or any interest therein, that is not in compliance with this Article IX shall, to the fullest extent permitted by law, be void *ab initio* and shall be of no effect.

ARTICLE X

LIMITED LIABILITY OF THE LIMITED PARTNERS

Section 10.1 Limited Liability. A Limited Partner that receives the return of any part of its Capital Contribution shall be liable to the Partnership for the amount of its Capital Contribution so returned to the extent, and only to the extent, provided by the Act. Except as provided in the Act, the Limited Partners shall not otherwise be liable to the Partnership for the repayment, satisfaction, or discharge of the Partnership's debts, liabilities or obligations. Except as may be otherwise expressly provided in this Agreement, no Limited Partner shall have any obligation to contribute money to the Partnership. No Limited Partner shall be personally liable to any third Person for any liability or other obligation of the Partnership.

ARTICLE XI

DURATION AND TERMINATION OF THE PARTNERSHIP

Section 11.1 Duration. The Partnership shall continue until terminated in accordance with this Article XI.

Section 11.2 Bankruptcy of a Partner. The bankruptcy, insolvency, dissolution or liquidation of, or the making of an assignment for the benefit of creditors by, or any other act or circumstance with respect to, a Partner shall not cause the dissolution or termination of the Partnership.

Section 11.3 Events of Dissolution; Termination of the Partnership. The Partnership shall be dissolved and terminate upon the first to occur of:

- (a) the written consent of the General Partner to the dissolution of the Partnership;
- (b) at any time there are no Limited Partners of the Partnership; and
- (c) the entry of a decree of judicial dissolution under Section 17-802 of the Act.

ARTICLE XII

LIQUIDATION OF THE PARTNERSHIP

Section 12.1 General.

(a) Upon the dissolution of the Partnership, the Partnership shall be liquidated in accordance with this Article XII and the Act. The termination, dissolution and liquidation shall be conducted and supervised by the General Partner (the General Partner being referred to in this Article XII as the “ **Liquidating Agent** ”). The Liquidating Agent shall have all of the rights, powers, and authority with respect to the assets and liabilities of the Partnership in connection with the liquidation, dissolution and termination of the Partnership that the General Partner has with respect to the assets and liabilities of the Partnership during the term of the Partnership, and subject to the same limitation on such powers as the General Partner has during the term of the Partnership, the Liquidating Agent is hereby expressly authorized and empowered to execute any and all documents necessary or desirable to effectuate the liquidation of the Partnership and the transfer of any assets or liabilities of the Partnership. The Liquidating Agent shall have the right from time to time, by revocable powers of attorney, to delegate to one or more Persons any or all of such rights and powers and such authority and power to execute documents and, in connection therewith, to fix the reasonable compensation of each such Person, which shall be charged as an expense of liquidation.

(b) The Liquidating Agent shall liquidate the Partnership in an orderly fashion and taking into account prevailing market conditions and the assets and liabilities of the Partnership and shall have a reasonable time to dispose of all assets of the Partnership upon the best price and on such terms as the Liquidating Agent is able to obtain in the then current market, as determined by the Liquidating Agent in its sole and absolute discretion.

Section 12.2 Priority on Liquidation: Distributions.

(a) The proceeds of liquidation shall be applied and distributed in the following order of priority:

(i) to pay the reasonable costs and expenses of the dissolution and liquidation;

(ii) to pay matured debts and liabilities of the Partnership to all creditors of the Partnership (including any liability to any Partner, which shall include the payment of any reimbursable costs and expenses under Section 7.4);

(iii) to establish any reserves which the Liquidating Agent may deem necessary or advisable for any contingent or unmatured liability of the Partnership to all Persons who are not Partners;

(iv) to establish any reserves which the Liquidating Agent may deem necessary or advisable for any contingent or unmatured liability of the Partnership to Partners; and

(v) finally, any remaining proceeds or assets shall be distributed to the Partners, *pro rata* , in accordance with their respective positive Capital Account balances.

(b) If upon the liquidation and winding up of Partnership, assets of the Partnership are to be distributed in kind, each such asset shall be valued to determine the amount of net gain or loss that would result if such asset were to be sold at fair market value, and such net gain or loss shall be allocated among, and credited or charged, as the case may be, to the Capital Accounts of the Partners in accordance with Article V.

Section 12.3 Source of Distributions. The General Partner shall not be liable out of its own assets for the distribution of any amounts to the Limited Partners, it being expressly understood that any such distribution shall be made solely from the Partnership's assets.

Section 12.4 Statements on Termination. Each Partner shall be furnished with a statement prepared by the Partnership's accountant, which shall set forth the assets and liabilities of the Partnership as at the date of complete liquidation, and each Partner's share thereof. Upon consummation of the liquidation of the Partnership set forth in this Article XII, the Limited Partners shall cease to be such, and the Liquidating Agent shall execute, acknowledge and cause to be filed a certificate of cancellation of the Partnership.

Section 12.5 Deficit Restoration. Upon the termination of the Partnership, no Limited Partner shall be required to restore to the Partnership any negative balance in his, her or its Capital Account. The General Partner shall be required to contribute to the Partnership an amount equal to its respective deficit Capital Account balances within the period prescribed by Treasury Regulations Section 1.704-1(b)(2)(ii)(c).

Section 12.6 Reconstitution. Nothing contained in this Agreement shall impair, restrict or limit the rights and powers of the Partners under the laws of the State of Delaware and any other jurisdiction in which the Partnership is doing business to reform and reconstitute themselves as a limited partnership following dissolution of the Partnership either under provisions identical to those set forth herein or any others which they may deem appropriate.

ARTICLE XIII

POWER OF ATTORNEY

Section 13.1 General. Each Partner irrevocably constitutes and appoints each officer and director of the General Partner and each Liquidating Agent the true and lawful attorney-in-fact, with power of substitution, of such Partner to execute, acknowledge, swear to and file: (a) any certificate or other instrument which may be required to be filed by the Partnership under the laws of any jurisdiction in which the Partnership or any Subsidiary does business, or which the General Partner shall deem advisable to file, so long as no such certificate or instrument shall have the effect of amending this Agreement or imposing any liability or obligation on such Partner or result in a Partner no longer having limited liability under the Act or otherwise; (b) any agreement, document, certificate or other instrument which any Partner is required to execute in connection with the transfer of such Partner's interest in the Partnership pursuant to Article IX and which such Partner has failed to execute and deliver within ten (10) days after written request therefor by the General Partner; (c) any instrument which the General Partner deems necessary or appropriate to facilitate the implementation of the terms of this Agreement, so long as such instruments do not alter the rights or obligations of the Limited Partners under the terms of this Agreement; and (d) any certificate, document, agreement or other instrument necessary to obtain benefits to which the Partners are otherwise entitled under an applicable tax treaty or the tax laws of any jurisdiction, including the authority to furnish to the relevant tax authorities information relating to a Partner's tax residence, address, taxpayer identification number and any other information required by such tax authorities in connection with the foregoing. The General Partner shall deliver a copy of each document executed pursuant to this power of attorney to each Partner in whose name such document was executed.

Section 13.2 Survival of Power of Attorney. It is expressly acknowledged by each Partner that the foregoing power of attorney is coupled with an interest and shall survive death, legal incapacity, bankruptcy, insolvency, assignment for the benefit of creditors and assignment by a Partner of its interest in the Partnership; provided, however, that if a Partner shall assign all of its interest in the Partnership and the assignee shall, in accordance with the provisions of this Agreement, become a substitute Partner, then such power of attorney shall survive such assignment only for the purpose of enabling the General Partner to execute, acknowledge, swear to and file any and all instruments necessary to effect such substitution.

Section 13.3 Written Confirmation of Power of Attorney. Each Partner hereby agrees to execute, upon fifteen (15) days' prior written notice, a confirmatory or special power of attorney, containing the substantive provisions of this Article XIII.

ARTICLE XIV

MISCELLANEOUS

Section 14.1 Further Assurances. The Partners agree to execute such instruments and documents as may be required by the Act or by law or which the General Partner reasonably deems necessary or appropriate to carry out the intent of this Agreement so long as they do not alter the rights and obligations of the Partners under this Agreement.

Section 14.2 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective estates, heirs, legal representatives, successors and permitted assigns, any additional Partner admitted in accordance with the provisions hereof and any successor to a trustee of a trust that is or becomes a party hereto.

Section 14.3 Governing Law. This Agreement shall be governed by, and construed in accordance with, the Act and judicial interpretations thereof to the extent applicable, and otherwise in accordance with the internal laws of the State of Delaware, without regard to conflict of law principles.

Section 14.4 Confidentiality. Each Partner expressly agrees, whether or not at the time a Partner of the Partnership or providing services to the Partnership or any of its Subsidiaries, to maintain the confidentiality of, and not disclose to any Person (other than the Partnership, the Partnership's Representatives, such Partner's Representatives (provided that such Partner shall be liable to the Partnership for any breach of this Section 14.4 by such Partner's Representatives) or another Partner), any information relating to the assets, liabilities, business, clients, affairs or financial structure, position or results of the Partnership or its Subsidiaries or any dispute involving the Partnership or its Subsidiaries that shall not be generally known to the public or the securities industry (" **Confidential Information** "); provided that such Partner may disclose any such Confidential Information (a) to the extent required by any applicable law, rule or regulation in the opinion of counsel or by the order of any securities exchange, banking supervisory authority or other governmental or self-regulatory organization of competent jurisdiction (provided that such Partner notifies the Partnership of such requirement prior to making such disclosure and cooperates with the Partnership in seeking to prevent or minimize such disclosure) or (b) with the prior written consent of the General Partner (not to be unreasonably withheld or delayed). Notwithstanding the foregoing, the General Partner may disclose and use Confidential Information as the General Partner determines to be necessary or appropriate in connection with administering and managing the businesses and operations of the Partnership or its Subsidiaries. Notwithstanding anything in this Agreement or any other express or implied agreement, arrangement or understanding to the contrary, each

party to this Agreement (and each of its Representatives) may disclose to any and all Persons, without limitation of any kind (other than as provided in the proviso of this sentence), the tax treatment and any facts that may be relevant to the tax structure of the transactions contemplated by this Agreement; provided, however, that no party (and no Representative thereof) shall disclose any other information that is not relevant to understanding the tax treatment and tax structure of the transactions contemplated by this Agreement (including the identity of any party and any information that could lead another to determine the identity of any party).

Section 14.5 Severability. If any one or more of the provisions contained in this Agreement, or any application thereof, shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and all other applications thereof shall not in any way be affected or impaired thereby, unless the absence of the invalid, illegal or unenforceable provision would materially affect the respective interests of the Partners, in which case the Partners shall use their best efforts to make such changes or adjustments in this Agreement as would restore the respective economic interests of the Partners as originally contemplated hereby.

Section 14.6 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall be deemed one and the same agreement.

Section 14.7 Entire Agreement. This Agreement amends and restates in its entirety the Prior Agreement. This Agreement, including the Schedules hereto, constitutes the entire agreement among the parties hereto and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof.

Section 14.8 Amendment; Waiver. This Agreement may be amended or waived at any time and from time to time with the consent of the General Partner. Notwithstanding anything to the contrary contained in this Agreement, without the consent of the holders of a majority of the Series A Units and the holders of a majority of the Series B Units, the second proviso set forth in Section 4.2(b), Section 5.2, Section 9.5 or this sentence (including any defined term used therein or herein) may not be amended in a manner that materially and negatively affects the existing terms of this Agreement setting forth the allocation of economic rights between the Series A Units as a class, on the one hand, and the Series B Units as a class, on the other hand (excluding any such effect resulting solely from additional capital received by the Partnership in connection with the issuance of additional Units).

Section 14.9 Construction. The captions used herein are intended for convenience of reference only, and shall not modify or affect in any manner the meaning or interpretation of any of the provisions of this Agreement. As used herein, the singular shall include the plural, the masculine gender shall include the feminine and neuter, and the neuter gender shall include the masculine and feminine, unless the context otherwise requires. The words “hereof,” “herein” and “hereunder,” and words of similar import, when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Except as otherwise specifically described in this Agreement, the words and phrases “including,” “shall include,” “inclusive of” and words and phrases of similar import are deemed to be followed by “without limitation” or “but not limited to.”

Section 14.10 Force Majeure. Whenever any act or thing is required of the Partnership or the General Partner hereunder to be done within any specified period of time, the Partnership or the General Partner, as the case may be, shall be entitled to do such act or thing within such additional time as shall equal the period of delay resulting from causes beyond the reasonable control of the Partnership or the General Partner, as the case may be, including bank holidays, actions of governmental agencies, natural disasters, acts of war or terrorism, national emergency or financial crises of a nature materially affecting the purchase and sale of securities; provided, that this provision shall not have the effect of relieving the Partnership or the General Partner from the obligation to perform any such act or thing.

Section 14.11 Opportunity; Duties. To the greatest extent permitted by applicable law, and except as otherwise expressly set forth in this Agreement:

(a) None of any member of the BGC Partners Group, any member of the Cantor Group, the General Partner or any of their respective Representatives shall owe any duty (fiduciary or otherwise) to, nor shall any member of the BGC Partners Group, any member of the Cantor Group, the General Partner or any of their respective Representatives be liable for breach of duty (fiduciary or otherwise) to, the Partnership or the holders of Equity Interests. In taking any action, making any decision or exercising any discretion with respect to the Partnership, each member of the BGC Partners Group, each member of the Cantor Group, the General Partner and any of their respective Representatives shall be entitled to consider such interests and factors as it desires, including its own interests and those of its Representatives, and shall have no duty or obligation (i) to give any consideration to the interests of or factors affecting the Partnership, the holders of Equity Interests or any other Person, or (ii) to abstain from participating in any vote or other action of the Partnership or any Affiliate thereof, or any board, committee or similar body of any of the foregoing. None of any member of the BGC Partners Group, any member of the Cantor Group, the General Partner or any of their respective Representatives shall violate a duty or obligation to the Partnership merely because such Person's conduct furthers such Person's own interest. Any member of the BGC Partners Group, any member of the Cantor Group, the General Partner or any of their respective Representatives may lend money to, and transact other business with, the Partnership and its Representatives. The rights and obligations of any such Person who lends money to, contracts with, borrows from or transacts business with the Partnership or any of its Representatives are the same as those of a Person who is not involved with the Partnership or any of its Representatives, subject to other applicable law. No transaction between any member of the BGC Partners Group, any member of the Cantor Group, the General Partner or any of their respective Representatives, on the one hand, and the Partnership, its Subsidiaries or any of their respective Representatives, on the other hand, shall be voidable solely because any member of the BGC Partners Group, any member of the Cantor Group, the General Partner or any of their respective Representatives has a direct or indirect interest in the transaction. Nothing herein contained shall prevent any member of the BGC Partners Group, any member of the Cantor Group, the General Partner or any of their respective Representatives from conducting any other business, including serving as an officer, director, employee, or stockholder of any corporation, partnership or limited liability company, a trustee of any trust, an executor or administrator of any estate, or an administrative official of any other business or not-for-profit entity, or from receiving any compensation in connection therewith.

(b) None of any member of the BGC Partners Group, any member of the Cantor Group, the General Partner or any of their respective Representatives shall owe any duty to refrain from (i) engaging in the same or similar activities or lines of business as the Partnership and its Representatives, or (ii) doing business with any of the Partnership's or its Representatives' clients or customers. In the event that any member of the BGC Partners Group, any member of the Cantor Group, the General Partner or any of their respective Representatives acquires knowledge of a potential transaction or matter that may be a Corporate Opportunity for any member of the BGC Partners Group, any member of the Cantor Group, the General Partner or any of their respective Representatives, on the one hand, and the Partnership or its Subsidiaries, on the other hand, such member of the BGC Partners Group, member of the Cantor Group, the General Partner or any of their respective Representatives, as the case may be, shall have no duty to communicate or offer such Corporate Opportunity to the Partnership or its Representatives. None of any member of the BGC Partners Group, any member of the Cantor Group, the General Partner or any of their respective Representatives shall be liable to the Partnership, the holders of Equity Interests or their Representatives for breach of any duty by reason of

the fact that any member of the BGC Partners Group, any member of the Cantor Group, the General Partner or any of their respective Representatives pursues or acquires such Corporate Opportunity for itself, directs such Corporate Opportunity to another Person or does not present such Corporate Opportunity to the Partnership or any of its Representatives.

(c) Any Person purchasing or otherwise acquiring any Equity Interest shall be deemed to have notice of and to have consented to the provisions of this Section 14.11.

(d) The provisions of this Agreement, to the extent that they restrict or eliminate the duties (including fiduciary duties) of a director, officer or other Person otherwise existing at law or in equity, are agreed by the parties hereto to replace such other duties of such Person.

(e) Neither the alteration, amendment, termination, expiration or repeal of this Section 14.11 nor the adoption of any provision of this Agreement inconsistent with this Section 14.11 shall eliminate or reduce the effect of this Section 14.11 in respect of any matter occurring, or any cause of action that, but for this Section 14.11, would accrue or arise, prior to such alteration, amendment, termination, expiration, repeal or adoption.

Section 14.12 Notices. All notices, demands, solicitations of consent or approval, and other communications hereunder shall be in writing and shall be sufficiently given if personally delivered, transmitted by facsimile or sent postage prepaid by overnight courier or registered or certified mail, return receipt requested, addressed as follows: if intended for the Partnership or the General Partner, to the Partnership's principal business office determined pursuant to Section 2.4, and if intended for any other Partner to the address of such Partner set forth on Schedule A hereto, or to such other address as such Partner may designate from time to time by written notice to the Partnership. Notices shall be deemed to have been given when personally delivered or transmitted by facsimile with electronic confirmation of receipt or, if mailed or sent by overnight courier, on the date on which received. The provisions of this Section 14.12 shall not prohibit the giving of written notice in any other manner; provided that, in any such case any such written notice shall be deemed given only when actually received.

Section 14.13 No Right of Partition for Redemption. No Partner and no successor-in-interest to any Partner shall have the right while this Agreement remains in effect to have the property of the Partnership partitioned, or to file a complaint or institute any proceeding at law or in equity to have the property of the Partnership partitioned or, except pursuant to Section 9.5 or on such terms and conditions as the General Partner may, in its sole and absolute discretion, approve, to require the redemption of its interest in the Partnership.

Section 14.14 Third-Party Beneficiaries. Except as expressly provided for in Article VIII, the provisions of this Agreement are not intended to be for the benefit of any creditor or other Person to whom any debts or obligations are owed by, or who may have any claim against, the Partnership or any of its Partners, except for Partners, in their capacities as such. Notwithstanding any contrary provision of this Agreement, no such creditor or Person shall obtain any rights under this Agreement or shall, by reason of this Agreement, be permitted to make any claim against the Partnership or any Partner.

Section 14.15 Choice of Forum, Appointment of Agent and Consent to Service of Process.

(a) TO THE EXTENT NECESSARY AND PERMITTED BY APPLICABLE LAW, WITH RESPECT TO ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OBLIGATION HEREUNDER, EACH PARTNER AND THE PARTNERSHIP IRREVOCABLY AND UNCONDITIONALLY (I) SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT IN

WILMINGTON, DELAWARE; (II) WAIVES ANY OBJECTION SUCH PARTNER MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE IN ANY SUCH COURT AND ANY CLAIM THAT SUCH COURT IS AN INCONVENIENT FORUM; (III) AGREES NOT TO CLAIM AND WAIVES ANY IMMUNITY WHICH THE PARTNER MAY BE ENTITLED TO CLAIM IN RESPECT OF ANY SUIT IN OR JURISDICTION OF ANY SUCH COURT; (IV) AGREES TO APPOINT PROMPTLY, UPON REQUEST FROM THE PARTNERSHIP OR THE GENERAL PARTNER, AUTHORIZED AGENTS FOR THE PURPOSE OF RECEIVING SERVICE OF PROCESS IN ANY SUIT, ACTION OR PROCEEDING IN WILMINGTON, DELAWARE; (V) CONSENTS TO SERVICE OF PROCESS IN ANY SUIT, ACTION OR PROCEEDING IN SUCH JURISDICTIONS; AND (VI) CONSENTS TO SERVICE OF PROCESS BY MAILING A COPY THEREOF TO THE ADDRESS OF THE PARTNER DETERMINED UNDER SECTION 14.12 BY UNITED STATES REGISTERED OR CERTIFIED MAIL, BY THE CLOSEST FOREIGN EQUIVALENT OF REGISTERED OR CERTIFIED MAIL, BY A RECOGNIZED OVERNIGHT DELIVERY SERVICE, BY SERVICE UPON ANY AGENT SPECIFIED PURSUANT TO CLAUSE (IV) OF THIS SECTION 14.15(A), OR BY ANY OTHER MANNER PERMITTED BY APPLICABLE LAW. EACH OF THE PARTNERS HEREBY WAIVES ANY RIGHT TO CLAIM OR RECEIVE AND NO COURT OF LAW SHALL HAVE ANY AUTHORITY TO AWARD SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING DAMAGES FOR LOST PROFITS AND LOST BUSINESS OPPORTUNITIES OR DAMAGES CALCULATED BASED UPON A MULTIPLE OF EARNINGS APPROACH OR VARIANT THEREOF.

(b) Each Partner and the Partnership waives any right to request or obtain a trial by jury in any judicial proceeding governed by the terms of this Agreement or pertaining to the matters governed by this Agreement. The “matters governed by this Agreement” shall include any and all matters and agreements resulting from or referred to in this Agreement and any disputes arising with respect to any such matters and agreements.

Section 14.16 UCC Treatment of Units. Solely for the purposes set forth in Article VIII of the Uniform Commercial Code in effect in the State of Delaware from time to time, all Units heretofore or hereafter issued by the Partnership shall be and are designated “securities” and shall be subject to and treated in accordance with the provisions of such Article VIII.

[The remainder of this page has been left blank intentionally.]

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be duly executed as of the date first set forth above.

General Partner:

CF REAL ESTATE FINANCE HOLDINGS GP, LLC

By: /s/ Howard W. Lutnick

Name: Howard W. Lutnick

Title: Chairman, President and

Chief Executive Officer

Limited Partners:

BGC PARTNERS, L.P.

By: /s/ Howard W. Lutnick

Name: Howard W. Lutnick

Title: Chief Executive Officer and Chairman

CANTOR COMMERCIAL REAL ESTATE COMPANY, L.P.

By: Cantor Sponsor, L.P., its general partner

By: /s/ Howard W. Lutnick

Name: Howard W. Lutnick

Title: Chairman and President

*[Signature Page to the Amended and Restated Agreement of
Limited Partnership of CF Real Estate Finance Holdings, L.P.]*

SCHEDULE A

LIST OF PARTNERS

(as of September 8, 2017)

General Partner

<u>Name</u>	<u>Address</u>	<u>Number of Units</u>
CF Real Estate Finance Holdings GP, LLC	110 East 59th Street New York, NY 10022	1

Special Voting Limited Partner

<u>Name</u>	<u>Address</u>	<u>Number of Units</u>
Cantor Commercial Real Estate Company, L.P.	110 East 59th Street New York, NY 10022	1

Regular Limited Partners

Series A Limited Partners

<u>Name</u>	<u>Address</u>	<u>Number of Units</u>	<u>Date of Admission</u>
BGC Partners, L.P.	c/o BGC Partners, Inc. 499 Park Avenue New York, NY 10022	1,000	September 8, 2017

Series B Limited Partners

<u>Name</u>	<u>Address</u>	<u>Number of Units</u>	<u>Date of Admission</u>
Cantor Commercial Real Estate Company, L.P.	110 East 59th Street New York, NY 10022	2,667	September 8, 2017

REVOLVING CREDIT AGREEMENT

Dated as of September 8, 2017

among

BGC PARTNERS, INC.

as the Borrower,

CERTAIN SUBSIDIARIES OF THE BORROWER,

as Guarantors,

BANK OF AMERICA, N.A.,

as Administrative Agent,

GOLDMAN SACHS BANK USA,

CITIBANK, N.A.

CAPITAL ONE, NATIONAL ASSOCIATION

MIZUHO BANK, LTD.

and

PNC BANK, NATIONAL ASSOCIATION,

as Co-Syndication Agents,

INDUSTRIAL AND COMMERCIAL BANK OF CHINA LTD., NEW YORK BRANCH,

as Documentation Agent

and

THE OTHER LENDERS PARTY HERETO

Arranged By:

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,

GOLDMAN SACHS BANK USA

CITIGROUP GLOBAL CAPITAL MARKETS INC.

CAPITAL ONE, NATIONAL ASSOCIATION

and

PNC CAPITAL MARKETS LLC,

as Joint Lead Arrangers and Joint Bookrunners

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11.06(b)	Form of Assignment and Assumption
11.06(b)(iv)	Form of Administrative Questionnaire

REVOLVING CREDIT AGREEMENT

This REVOLVING CREDIT AGREEMENT is entered into as of September 8, 2017 among BGC PARTNERS, INC., a Delaware corporation (the “Borrower”), the Guarantors from time to time party hereto, the Lenders (defined herein) and BANK OF AMERICA, N.A., as Administrative Agent.

The Borrower has requested that the Lenders provide revolving credit facilities for the purposes set forth herein, and the Lenders are willing to do so on the terms and conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I

DEFINITIONS AND ACCOUNTING TERMS

1.01 Defined Terms.

As used in this Agreement, the following terms shall have the meanings set forth below:

“Acquisition”, by any Person, means the acquisition by such Person, in a single transaction or in a series of related transactions, of either (a) all or substantially all of the property of, or a line of business or division of, another Person or (b) at least a majority of the Voting Stock of another Person, in each case whether or not involving a merger or consolidation with such other Person.

“Administrative Agent” means Bank of America in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

“Administrative Agent’s Office” means the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 11.02 or such other address or account as the Administrative Agent may from time to time notify to the Borrower and the Lenders.

“Administrative Questionnaire” means an Administrative Questionnaire in substantially the form of Exhibit 11.06(b)(iv) or any other form approved by the Administrative Agent.

“Affiliate” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“Aggregate Revolving Commitments” means the Revolving Commitments of all the Lenders. The initial amount of the Aggregate Revolving Commitments in effect on the Closing Date is \$400,000,000.

“Agreement” means this Revolving Credit Agreement.

“Applicable Percentage” means with respect to any Lender at any time, the percentage (carried out to the ninth decimal place) of the Aggregate Revolving Commitments represented by such Lender’s Revolving Commitment at such time; provided that if the commitment of each Lender to make Revolving Loans has been terminated pursuant to Section 8.02 or if the Aggregate Revolving Commitments have expired, then the Applicable Percentage of each Lender shall be determined based on the Applicable Percentage of such Lender most recently in effect, giving effect to any subsequent assignments. The

initial Applicable Percentage of each Lender is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption or other documentation pursuant to which such Lender becomes a party hereto, as applicable. The Applicable Percentages shall be subject to adjustment as provided in Section 2.15.

“Applicable Rate” means the following percentages per annum, based on the applicable rate per annum set forth in the below table (and subject to the paragraphs below):

<u>Pricing Level</u>	<u>Debt Rating</u>	<u>Commitment Fee</u>	<u>Applicable Margin for Eurodollar Rate Loans</u>	<u>Applicable Margin for Base Rate Loans</u>
I	≥			
	BBB+/BBB+	20.0 bps	150.0 bps	50.0 bps
II	BBB/BBB	25.0 bps	187.5 bps	87.5 bps
III	BBB-/BBB-	30.0 bps	225.0 bps	125.0 bps
IV	BB+/BB+	40.0 bps	275.0 bps	175.0 bps
V	≤ BB/BB	50.0 bps	325.0 bps	225.0 bps

Each change in the Applicable Rate resulting from a change in the Debt Rating of the Borrower shall be effective for the period commencing on the effective date of such change and ending on the date immediately preceding the effective date of the next such change. Notwithstanding the above, (i) if at any time there is a split in the Debt Ratings between S&P and Fitch, and the Debt Ratings differ by one level, then the Pricing Level for the higher of such Debt Ratings shall apply (with the Debt Rating for Pricing Level I being the highest and the Debt Rating for Pricing Level V being the lowest); (ii) if there is a split in Debt Ratings between S&P and Fitch of more than one level, then the Pricing Level that is one level lower than the Pricing Level of the higher Debt Rating shall apply; (iii) if the Borrower has only one Debt Rating, such Debt Rating shall apply; and (iv) if the Borrower does not have any Debt Rating, Pricing Level V shall apply.

Notwithstanding the above, (x) if there are any amounts outstanding under the Term Loan Facility as of December 31, 2017, the pricing shall increase by 50 bps at each pricing level until the Term Loan Facility is paid in full and (y) if there are any amounts outstanding under the Term Loan Facility as of June 30, 2018, the pricing shall increase by an additional 75 bps at each pricing level (125 bps in the aggregate) until the Term Loan Facility is paid in full. From and after the repayment in full of the Term Loan Facility, the pricing shall return to the levels described in the table above, as applicable.

“Approved Fund” means any Fund 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.

“Arrangers” means Merrill Lynch, Pierce, Fenner & Smith Incorporated (or any other registered broker-dealer wholly-owned by Bank of America Corporation to which all or substantially all of Bank of America Corporation’s or any of its subsidiaries’ investment banking, commercial lending services or related businesses may be transferred following the date of this Agreement), Goldman Sachs Bank USA, Citigroup Global Capital Markets Inc. and PNC Capital Markets LLC in their capacity as joint lead arrangers and bookrunners.

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 11.06(b)), and accepted by the Administrative Agent, in substantially the form of Exhibit 11.06(b) or any other form (including electronic documentation generated by use of an electronic platform) approved by the Administrative Agent.

“Attributable Indebtedness” means, with respect to any Person on any date, (a) in respect of any capital lease, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, (b) in respect of any Synthetic Lease Obligation, the capitalized amount of the remaining lease payments under the relevant lease that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease were accounted for as a capital lease, (c) in respect of any Securitization Transaction, the outstanding principal amount of such financing, after taking into account reserve accounts and making appropriate adjustments, determined by the Administrative Agent in its reasonable judgment and (d) in respect of any Sale and Leaseback Transaction, the present value (discounted in accordance with GAAP at the debt rate implied in the applicable lease) of the obligations of the lessee for rental payments during the term of such lease.

“Audited Financial Statements” means the audited consolidated balance sheet of the Borrower and its Subsidiaries for the fiscal years ended 2014, 2015 and 2016, and the related consolidated statements of income or operations, shareholder’s equity and cash flows of the Borrower and its Subsidiaries for such fiscal year, including the notes thereto.

“Availability Period” means, with respect to the Revolving Commitments, the period from and including the Closing Date to the earliest of (a) the Maturity Date, (b) the date of termination of the Aggregate Revolving Commitments pursuant to Section 2.06, and (c) the date of termination of the commitment of each Lender to make Loans.

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

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

“Bank of America” means Bank of America, N.A. and its successors.

“Base Rate” means for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate plus 0.50%, (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its “prime rate” and (c) the Eurodollar Rate plus 1.0%; and if Base Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement. The “prime rate” is a rate set by Bank of America based upon various factors including Bank of America’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 Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change.

“Base Rate Loan” means a Loan that bears interest based on the Base Rate.

“Berkeley Point” means Berkeley Point Financial LLC and its Subsidiaries.

“Borrower” has the meaning specified in the introductory paragraph hereto.

“Borrower Materials” has the meaning specified in Section 6.02.

“Borrowing” means a borrowing consisting of simultaneous Loans of the same Type and, in the case of Eurodollar Rate Loans, having the same Interest Period made by each of the Lenders pursuant to Section 2.01.

“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, the state where the Administrative Agent’s Office is located and, if such day relates to any Eurodollar Rate Loan, means any such day that is also a day on which dealings in Dollar deposits are conducted by and between banks in the London interbank eurodollar market.

“Capital Requirements” means the minimum capital requirements applicable to a Regulated Subsidiary pursuant to applicable law, rule or regulation, including any such requirements imposed by any self-regulatory organization.

“Cash AD Loan” means a loan made by the Borrower or one of its Subsidiaries to an employee of the Borrower or one of its Subsidiaries which is to be repaid with the distributions in respect of limited partnership units allocated to such employee, and which is generally expected to be forgiven if such employee remains employed by the Borrower or one of its Subsidiaries at the conclusion of a specific period of time.

“Cash Equivalents” means any of the following types of Investments, to the extent owned by the Borrower or any of its Subsidiaries free and clear of all Liens (other than Permitted Liens):

(a) readily marketable obligations issued or directly and fully guaranteed or insured by the United States or any agency or instrumentality thereof having maturities of not more than three hundred sixty days (360) days from the date of acquisition thereof; provided that the full faith and credit of the United States is pledged in support thereof;

(b) time deposits with, or insured certificates of deposit or bankers’ acceptances of, any commercial bank that (i) (A) is a Lender or (B) is organized under the laws of the United States, any state thereof or the District of Columbia or is the principal banking subsidiary of a bank holding company organized under the laws of the United States, any state thereof or the District of Columbia, and is a member of the Federal Reserve System, (ii) issues (or the parent of which issues) commercial paper rated as described in clause (c) of this definition and (iii) has combined capital and surplus of at least \$1,000,000,000, in each case with maturities of not more than one year from the date of acquisition thereof;

(c) commercial paper issued by any Person organized under the laws of any state of the United States and rated at least “Prime-1” (or the then equivalent grade) by Moody’s or at least “A-1” (or the then equivalent grade) by S&P, in each case with maturities of not more than one year from the date of acquisition thereof; and

(d) Investments, classified in accordance with GAAP as current assets of the Borrower or any of its Subsidiaries, in money market investment programs registered under the Investment Company Act of 1940, which are administered by financial institutions that have the highest rating obtainable from either Moody’s or S&P, and the portfolios of which are limited solely to Investments of the character, quality and maturity described in clauses (a), (b) and (c) of this definition.

“CFTC” means the Commodities Futures Trading Commission or any other regulatory body that succeeds to the functions of the Commodities Futures Trading Commission.

“Change in Law” means the occurrence, after the Closing Date (or, with respect to any Lender that is not a Lender on the Closing Date, such later date on which such Lender becomes a party to this Agreement), of any of the following: (a) the adoption or taking effect of any Law, (b) any change in any Law or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of Law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) 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.

“Change of Control” means an event or series of events by which the Permitted Holders fail to own, directly or indirectly, a sufficient amount of the Voting Stock of the Borrower in order to elect a majority of the members of the Board of Directors of the Borrower.

“Closing Date” means the date of this Agreement.

“Commitment” means, as to each Lender, the Revolving Commitment of such Lender.

“Commodity Exchange Act” means the Commodity Exchange Act (7 U.S.C. § 1 *et seq.*).

“Compliance Certificate” means a certificate substantially in the form of Exhibit 6.02.

“Connection Income Taxes” means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

“Consolidated EBITDA” means, for any period, for the Borrower and its Subsidiaries on a consolidated basis, an amount equal to Consolidated Net Income (excluding extraordinary and other non-recurring gains and losses and charges) for such period plus (x) the following to the extent deducted in calculating such Consolidated Net Income: (a) Consolidated Interest Charges with respect to the Borrower and its Subsidiaries for such period, (b) the provision for federal, state, local and foreign income taxes payable by Borrower and its Subsidiaries for such period, (c) the amount of depreciation and amortization expense (including any amortization related to mortgage servicing rights, any amortization related to bonuses, any amortization related to any forgivable loan made in lieu of or for the same purpose as a bonus and any amortization related to restricted stock awards or similar awards) for such period, (d) reserves taken on Cash AD Loans, (e) charges relating to grants of exchangeability to limited partnership interests, redemption or repurchase of units or shares or the issuance of restricted shares, (f) distributions on grant units or other partnership units and allocations of net income limited to partnership units and (g) impairment charges minus (y) non-cash gains attributable to originated mortgage servicing rights in accordance with GAAP; provided that for purposes of calculating the financial covenants, no EBITDA (either historically or prospectively) shall be counted from any Subsidiary to the extent it is contractually prohibited from making distributions to the Borrower at such time.

“Consolidated Funded Indebtedness” means, as of any date of determination, all Funded Indebtedness of the Borrower and its Subsidiaries.

“Consolidated Interest Charges” means, for any period, for any Person, the sum of the following items to the extent paid in cash during such period (a) all interest, premium payments, debt discount, fees, charges and related expenses in connection with borrowed money (including capitalized interest, but

excluding any interest or other charges or expenses attributable to repurchase agreements and other securities lending or borrowing transactions) or in connection with the deferred purchase price of assets, in each case to the extent treated as interest in accordance with GAAP, plus (b) the portion of rent expense with respect to such period under capital leases that is treated as interest in accordance with GAAP plus (c) the implied interest component of Synthetic Lease Obligations with respect to such period.

“Consolidated Interest Coverage Ratio” means, as of any fiscal quarter-end for which it is to be determined, the ratio of (a) Consolidated EBITDA for the period of the four fiscal quarters ending on such date to (b) Consolidated Interest Charges with respect to the Borrower and its Subsidiaries for the period of the four fiscal quarters ending on such date, in each case calculated on a Pro Forma Basis in accordance with Section 1.03(c).

“Consolidated Leverage Ratio” means, as of any fiscal quarter-end for which it is to be determined, the ratio of (a) Consolidated Funded Indebtedness as of such date to (b) Consolidated EBITDA for the period of the four fiscal quarters ending on such date, in each case calculated on a Pro Forma Basis in accordance with Section 1.03(c).

“Consolidated Net Income” means, for any period, for the Borrower and its Subsidiaries on a consolidated basis, net income (or loss) for such period; provided that Consolidated Net Income shall exclude any income (or loss) for such period of any Person if such Person is not a Subsidiary, except that the Borrower’s equity in the net income of any such Person for such period shall be included in Consolidated Net Income up to the aggregate amount of cash actually distributed by such Person during such period to the Borrower or a Subsidiary as a dividend or other distribution.

“Consolidated Net Worth” means, at any date for which it is to be determined, the sum, without duplication, of the following items which would be shown on a consolidated balance sheet of the Borrower and its Subsidiaries prepared in accordance with GAAP as of such date: stockholders’ equity (including capital stock, additional paid-in capital, contingent stock, retained earnings and accumulated other comprehensive income) plus the aggregate amount of all redeemable partnership interests plus the aggregate amount of all non-controlling interests in Subsidiaries.

“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.

“Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “Controlling” and “Controlled” have meanings correlative thereto.

“Credit Extension” means any Borrowing.

“Debtor Relief Laws” means the Bankruptcy Code of the United States, 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.

“Debt Rating” means, as of any date of determination, the rating as determined by either S&P or Fitch of a Person’s non-credit-enhanced, senior unsecured long-term debt. The Debt Rating in effect at any date is the Debt Rating that is in effect at the close of business on such date.

“Default” means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“Default Rate” means (a) with respect to any Obligation for which a rate is specified, a rate per annum equal to two percent (2%) in excess of the rate otherwise applicable thereto and (b) with respect to any Obligation for which a rate is not specified or available, a rate per annum equal to the Base Rate plus the Applicable Rate for Revolving Loans that are Base Rate Loans plus two percent (2%), in each case, to the fullest extent permitted by applicable Law.

“Defaulting Lender” means, subject to Section 2.15(b), any Lender that (a) has failed to (i) fund all or any portion of its Loans within two Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within two Business Days of the date when due, (b) has notified the Borrower or the Administrative Agent in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender’s obligation to fund a Loan hereunder and states that such position is based on such Lender’s determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three Business Days after written request by the Administrative Agent or the Borrower, 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 shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Equity Interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender or (iii) become the subject of a Bail-In Action. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above, and of the effective date of such status, shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.15(b)) upon delivery of a written notice of such determination, which shall be delivered by the Administrative Agent to the Borrower and each other Lender promptly following such determination.

“Designated Jurisdiction” means any country or territory to the extent that such country or territory itself is the subject of any Sanction, including, without limitation, each of Belarus, Myanmar (Burma), Crimea region of Ukraine, Cuba, Iran, North Korea, Sudan, Syria and Zimbabwe.

“Disposition” or “Dispose” means the sale, transfer, license, lease or other disposition of any property by any Loan Party or any Subsidiary, including any Sale and Leaseback Transaction and any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

“Disqualified Institution” means (a) any competitors of the Borrower and its Subsidiaries identified on Schedule 1.01 as of the Closing Date and (b) any other Person who is a competitor of the Borrower and its Subsidiaries which has been designated by the Borrower as a “Disqualified Institution” by written notice to the Administrative Agent and the Lenders (including by posting such notice to the Platform) not less than 5 Business Days prior to the effectiveness thereof; provided that, (i) it is understood and agreed that Schedule 1.01 shall be updated upon the effectiveness of a new Disqualified Institution, (ii) the Administrative Agent shall have the right, and the Borrower hereby expressly authorizes the Administrative Agent, to post Schedule 1.01, and any updates thereto from time to time, on the Platform and to provide Schedule 1.01 to each Lender requesting the same and (iii) “Disqualified Institutions” shall exclude any Person that the Borrower has designated as no longer being a “Disqualified Institution” by written notice delivered to the Administrative Agent and the Lenders. For the avoidance of doubt, with respect to any Person who becomes a Disqualified Institution after the date on which it entered into a binding agreement to purchase all or a portion of the rights and obligations of an assigning Lender, such Person shall not retroactively be disqualified from being or becoming a Lender.

“Dollar” and “\$” mean lawful money of the United States.

“Domestic Subsidiary” means any Subsidiary that is organized under the Laws of any state of the United States or the District of Columbia.

“EBITDA” means, with respect to any Person, that portion of Consolidated EBITDA attributable to such Person.

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

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

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

“Eligible Assignee” means any Person that meets the requirements to be an assignee under Sections 11.06(b)(iii) and (v) (subject to such consents, if any, as may be required under Section 11.06(b)(iii)).

“Eligible Line of Business” means (a) any business in which the Borrower or any of its Subsidiaries are engaged or have an Investment in as of the Closing Date, (b) financial services including but not limited to broker-dealer and capital market transactions involving financial products (and transactions and services related thereto), investment banking, and structured products and brokerage (including, but not limited to, prime brokerage), asset management (including, but not limited to, wealth management and fund management), market data, technology, trade execution, clearing (including correspondent clearing), processing, information, securitization, servicing, legal services or marketplace services in any industry, including but not limited to securities, financial products, real estate, commodities, shipping, insurance, intellectual property, spectrum and entertainment, (c) real estate services including brokerage, investment sales, consulting, project and development management, and property and facilities management, (d) acting as an energy reseller, (e) financing transactions and products loan origination or brokering and (f) any line of business complementary to the businesses in clause (a), (b), (c), (d) or (e).

“Environmental Laws” means any and all federal, state, local and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

“Environmental Liability” means any liability (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of any Loan Party or any Subsidiary directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Equity Interests” means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

“ERISA” means the Employee Retirement Income Security Act of 1974.

“ERISA Affiliate” means any trade or business (whether or not incorporated) under common control with the Borrower within the meaning of Section 414(b) or (c) of the Internal Revenue Code (and Sections 414(m) and (o) of the Internal Revenue Code for purposes of provisions relating to Section 412 of the Internal Revenue Code), and with respect to which liability to the Borrower is reasonably expected to attach.

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) the withdrawal of the Borrower or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which such entity was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Borrower or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Pension Plan amendment as a termination under Section 4041 or 4041A of ERISA, (e) the institution by the PBGC of proceedings to terminate a Pension Plan; (f) any event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (g) the determination that any Pension Plan is considered an at-risk plan or, to the knowledge of the Borrower, that a Multiemployer Plan is in endangered or critical status within the meaning of Sections 430, 431 and 432 of the Internal Revenue Code or Sections 303, 304 and 305 of ERISA, as applicable (h) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Borrower or any ERISA Affiliate or (i) a failure by the Borrower or any ERISA Affiliate to meet all applicable requirements under the Pension Funding Rules in respect of a Pension Plan, whether or not waived, or the failure by the Borrower or any ERISA Affiliate to make any required contribution to a Multiemployer Plan.

“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.

“Eurodollar Rate” means:

(a) for any Interest Period with respect to a Eurodollar Rate Loan, the rate per annum equal to the London Interbank Offered Rate (“LIBOR”) or (if not available) a comparable or successor rate, which rate is approved by the Administrative Agent, as published by Bloomberg (or, if not available, such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time) (in such case, the “LIBOR Rate”) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period; and

(b) for any interest calculation with respect to a Base Rate Loan on any date, the rate per annum equal to the LIBOR Rate, at approximately 11:00 a.m., London time determined two Business Days prior to such date for Dollar deposits with a term of one month commencing that day;

provided that (i) to the extent a comparable or successor rate is approved by the Administrative Agent in connection herewith, the approved rate shall be applied in a manner consistent with market practice; provided, further that to the extent such market practice is not administratively feasible for the Administrative Agent, such approved rate shall be applied as otherwise reasonably determined by the Administrative Agent and (ii) if the Eurodollar Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement.

“Eurodollar Rate Loan” means a Loan that bears interest at a rate based on clause (a) of the definition of “Eurodollar Rate.”

“Event of Default” has the meaning specified in Section 8.01.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to any Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the Laws of, or having its principal office or, in the case of any Lender, its Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a Law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 11.13) or (ii) such Lender changes its Lending Office, except in each case to the extent that, pursuant to Section 3.01(a)(ii), 3.01(a)(iii) or 3.01(c), amounts with respect to such Taxes were payable either to such Lender’s assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its Lending Office, (c) Taxes attributable to such Recipient’s failure to comply with Section 3.01(e) and (d) any U.S. federal withholding Taxes imposed pursuant to FATCA.

“Facility Termination Date” means the date as of which all of the following shall have occurred: (a) all Commitments have terminated and (b) all Obligations arising under the Loan Documents have been paid in full (other than contingent indemnification obligations).

“FASB ASC” means the Accounting Standards Codification of the Financial Accounting Standards Board.

“FATCA” means Sections 1471 through 1474 of the Internal Revenue Code, as of the Closing Date (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Internal Revenue Code and any applicable intergovernmental agreements implementing the foregoing.

“FCM” has the meaning set forth in the definition of “Regulated Subsidiary.”

“Federal Funds Rate” means, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to Bank of America on such day on such transactions as determined by the Administrative Agent, and (c) if the Federal Funds Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement.

“Fee Letter” means that certain fee letter between the Borrower and Bank of America entered into as of August 11, 2017.

“FINRA” means the Financial Industry Regulatory Authority, Inc., or any other self-regulatory body which succeeds to the functions of the Financial Industry Regulatory Authority, Inc.

“Fitch” means Fitch, Inc., and any successor thereto.

“Foreign Lender” means (a) if the Borrower is a U.S. Person, a Lender that is not a U.S. Person, and (b) if the Borrower is not a U.S. Person, a Lender that is resident or organized under the Laws of a jurisdiction other than that in which the Borrower is resident for tax purposes. For purposes of this definition, the United States, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

“Foreign Subsidiary” means any Subsidiary that is not a Domestic Subsidiary.

“FRB” means the Board of Governors of the Federal Reserve System of the United States.

“Fund” means any Person (other than a natural Person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

“Funded Indebtedness” means, without duplication, (a) all obligations of such Person for all indebtedness created, assumed or incurred in any manner by such Person representing money borrowed (including by the issuance of debt securities), (b) all indebtedness for the deferred purchase price of property or services (other than trade accounts payable arising in the ordinary course of business), (c) all indebtedness secured by any lien upon property of such Person, whether or not such Person has assumed or become liable for the payment of such indebtedness, (d) all Attributable Indebtedness of such Person, (e) all obligations of such Person on or with respect to letters of credit and bankers’ acceptances, (f) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (g) all indebtedness for borrowed money of any other Person which is directly or indirectly guaranteed by the Borrower or any of its Subsidiaries or which the Borrower or any of its Subsidiaries has agreed (contingently or otherwise) to purchase or otherwise acquire or in respect of which the Borrower or any of its Subsidiaries has otherwise assured a creditor against loss and (h) all Guarantees of such Person in respect of the foregoing; provided, however, that Funded Indebtedness shall not include (i) accounts payable incurred in the ordinary course of business, (ii) short term obligations incurred in the ordinary course of business (iii) obligations of such Person in respect of Swap Contracts related to hedging or otherwise entered into in the ordinary course of business and (iv) to the extent such Person is (x) a Regulated Subsidiary or (y) Berkeley Point, obligations of such Person in respect of repurchase agreements or securities lending or borrowing agreements. Notwithstanding the foregoing, it is understood and agreed that the amount of Funded Indebtedness related to “bad boy guaranties” (including any related environmental indemnity) and the Guarantees by Berkeley Point to Fannie Mae under the Delegated Underwriting and Servicing Program and to Freddie Mac under the Targeted Affordable Housing Program shall, in each case, be equal to the amount of any such Indebtedness, if any, that is required by GAAP to be accrued for or otherwise set forth as a liability on the balance sheet of such Person.

“GAAP” means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board, consistently applied.

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

“Guarantee” means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness payable or performable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness of the payment or performance of such Indebtedness or (iii) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness of any other Person, whether or not such Indebtedness is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien). 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 by the guaranteeing Person in good faith. The term “Guarantee” as a verb has a corresponding meaning.

“Guarantors” means, collectively, (a) each Subsidiary of the Borrower that becomes a Guarantor pursuant to Section 6.12 or otherwise, (b) each other Person that may become a Guarantor hereunder and (c) the successors and permitted assigns of the foregoing.

“Guaranty” means the Guaranty made by the Guarantors in favor of the Administrative Agent and the other holders of the Obligations pursuant to Article X

“Hazardous Materials” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

“IB” has the meaning set forth in the definition of “Regulated Subsidiary.”

“IFRS” means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements delivered under or referred to herein.

“Indebtedness” means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

(a) all Funded Indebtedness;

(b) obligations under any Swap Contract;

(c) all obligations to purchase, redeem, retire, defease or otherwise make any payment prior to the Maturity Date in respect of any Equity Interests of the Borrower or any of its Subsidiaries or any warrant, right or option to acquire such Equity Interest, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends;

(d) all Guarantees of such Person in respect of any of the foregoing; and

(e) all Indebtedness of the types referred to in clauses (a) through (d) above 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 joint venture (but only to the extent such Person is liable therefor as a result of such interest), unless such Indebtedness is expressly made non-recourse to such Person.

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

“Indemnitee” has the meaning specified in Section 11.04(b).

“Information” has the meaning specified in Section 11.07.

“Interest Payment Date” means (a) as to any Eurodollar Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date; provided, however, that if any Interest Period for a Eurodollar Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any Base Rate Loan, the last Business Day of each March, June, September and December and the Maturity Date.

“Interest Period” means, as to each Eurodollar Rate Loan, the period commencing on the date such Eurodollar Rate Loan is disbursed or converted to or continued as a Eurodollar Rate Loan and ending on the date one, two, three or six months thereafter, or upon the consent of all Lenders, such other period that is twelve months or less (in each case, subject to availability), as selected by the Borrower in its Loan Notice; provided that:

(a) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day; and

(b) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period.

“Internal Revenue Code” means the Internal Revenue Code of 1986.

“Investment” means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person, or (c) an Acquisition. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

“IP Rights” has the meaning specified in Section 5.16.

“IRS” means the United States Internal Revenue Service.

“Joinder Agreement” means a joinder agreement substantially in the form of Exhibit 6.12 executed and delivered by a Subsidiary in accordance with the provisions of Section 6.12 or any other documents as the Administrative Agent shall deem appropriate for such purpose.

“Laws” means, collectively, all international, foreign, federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of Law.

“Lenders” means each of the Persons identified as a “Lender” on the signature pages hereto, each other Person that becomes a “Lender” in accordance with this Agreement and their successors and assigns.

“Lending Office” means, as to 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, which office may include any Affiliate of such Lender or any domestic or foreign branch of such Lender or such affiliate. Unless the context otherwise requires each references to a Lender shall include its applicable Lending Office.

“Lien” means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing).

“Loan” means an extension of credit by a Lender to the Borrower under Article II in the form of a Revolving Loan.

“Loan Documents” means this Agreement, each Note, each Joinder Agreement and the Fee Letter.

“Loan Notice” means a notice of (a) a Borrowing of Revolving Loans, (b) a conversion of Loans from one Type to the other, or (c) a continuation of Eurodollar Rate Loans, in each case pursuant to Section 2.02(a), which shall be substantially in the form of Exhibit 2.02 or such other form as may be approved by 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.

“Loan Parties” means, collectively, the Borrower and each Guarantor.

“Master Agreement” has the meaning specified in the definition of “Swap Contract.”

“Material Adverse Effect” means (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, financial condition, assets or properties of the Borrower and its Subsidiaries taken as a whole; (b) a material impairment of the ability of the Borrower to perform its obligations under any Loan Document to which it is a party; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against the Borrower of any Loan Document to which it is a party.

“Maturity Date” means September 8, 2019; provided, however, that if such date is not a Business Day, the Maturity Date shall be the next preceding Business Day.

“Moody’s” means Moody’s Investors Service, Inc. and any successor thereto.

“Multiemployer Plan” means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

“Multiple Employer Plan” means a single employer, as defined in Section 4001(a)(15) of ERISA, that is subject to Title IV of ERISA and that has two or more contributing sponsors (including the Borrower or any ERISA Affiliate) at least two of whom are not under common control, as such a plan is described in Section 4064 of ERISA.

“Net Excess Capital” means the aggregate regulatory net capital, as defined in the applicable Capital Requirements, in excess of the aggregate required net capital under the Capital Requirements, as shown on the Borrower’s most recent annual audited financial statements or quarterly management prepared statements delivered pursuant to Section 6.01, and, without duplication, as shown on the Borrower’s SEC Forms 10-Q and 10-K.

“Newmark” means the Subsidiaries of the Borrower or Cantor Fitzgerald, L.P. that own or will own the Newmark Knight Frank business.

“NFA” means the National Futures Association or any other regulatory body that succeeds to the functions of the National Futures Association.

“Non-Consenting Lender” means any Lender that does not approve any consent, waiver or amendment that (a) requires the approval of all Lenders or all affected Lenders in accordance with the terms of Section 11.01 and (b) has been approved by the Required Lenders.

“Non-Defaulting Lender” means, at any time, each Lender that is not a Defaulting Lender at such time.

“Note” has the meaning specified in Section 2.11.

“Notice of Loan Prepayment” means a notice of prepayment with respect to a Loan, which shall be substantially in the form of Exhibit 2.05 or such other form as may be approved by 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.

“Obligations” means with respect to each Loan Party all advances to, and debts, liabilities, obligations, covenants and duties of, such Loan Party arising under any Loan Document or otherwise with respect to any Loan, in each case whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

“OFAC” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“Organization Documents” means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement or limited liability company agreement (or equivalent or comparable documents with respect to any non-U.S. jurisdiction); (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization (or equivalent or comparable documents with respect to any non-U.S. jurisdiction) and (d) with respect to all entities, any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization (or equivalent or comparable documents with respect to any non-U.S. jurisdiction).

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

“Other Taxes” means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 3.06).

“Outstanding Amount” means with respect to any Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of any Loans occurring on such date.

“Participant” has the meaning specified in Section 11.06(d).

“Participant Register” has the meaning specified in Section 11.06(d).

“PBGC” means the Pension Benefit Guaranty Corporation.

“Pension Act” means the Pension Protection Act of 2006.

“Pension Funding Rules” means the rules of the Internal Revenue Code and ERISA regarding minimum required contributions (including any installment payment thereof) to Pension Plans and set forth in, with respect to plan years ending prior to the effective date of the Pension Act, Section 412 of the Internal Revenue Code and Section 302 of ERISA, each as in effect prior to the Pension Act and, thereafter, Section 412, 430, 431, 432 and 436 of the Internal Revenue Code and Sections 302, 303, 304 and 305 of ERISA.

“Pension Plan” means any “employee pension benefit plan” (within the meaning of Section 3(2) of ERISA) (including a Multiple Employer Plan, but excluding a Multiemployer Plan) that is maintained or is contributed to by the Borrower and any ERISA Affiliate and is either covered by Title IV of ERISA or is subject to the minimum funding standards under Section 412 of the Internal Revenue Code.

“Permitted Acquisition” means any Acquisition, provided that (a) no Default shall have occurred and be continuing or would result from such Acquisition, (b) if the Acquisition involves aggregate cash and non-cash consideration (including assumed Indebtedness, the good faith estimate by the Borrower of the maximum amount of any deferred purchase price obligations (including any earn out payments) and Equity Interests) in excess of the greater of \$50,000,000 and 4.5% of Consolidated Net Worth (as of the date of such Acquisition), the Person or property acquired in such Acquisition is in an Eligible Line of Business, (c) in the case of an Acquisition of the Equity Interests of another Person, the board of directors (or other comparable governing body) of such other Person shall have duly approved such Acquisition, and (d) the Borrower shall be in compliance with the financial covenants set forth in Section 7.11 recomputed as of the end of the period of the four fiscal quarters most recently ended for which the Borrower has delivered financial statements pursuant to Section 6.01(a) or (b) after giving effect to such Acquisition on a Pro Forma Basis. It is understood and agreed that, if (x) the Acquisition of a Significant Subsidiary involves aggregate cash and non-cash consideration (including assumed Indebtedness, the good faith estimate by the Borrower of the maximum amount of any deferred purchase price obligations (including any earn out payments) and Equity Interests) in excess of the greater of \$50,000,000 and 4.5% of Consolidated Net Worth (as of the date of such Acquisition) and (y) the Consolidated Leverage Ratio shall be greater than 2.50:1.00 after giving effect to such Acquisition of a Significant Subsidiary on a Pro Forma Basis, the Borrower shall have delivered to the Administrative Agent a Pro Forma Compliance Certificate.

“Permitted Holders” means Cantor Fitzgerald, L.P., Howard W. Lutnick, any Person controlled by him or any trust established for Mr. Lutnick’s benefit or for the benefit of his spouse, any of his descendants or any of his relatives, in each case, so long as he is alive and, upon his death or incapacity, any person who shall, as a result of Mr. Lutnick’s death or incapacity, become a “beneficial owner” (as defined in Rule 13d-3 under the Securities Exchange Act) of the Borrower’s capital stock by operation of a trust, by will or the laws of descent and distribution or by operation of law.

“Permitted Liens” means, at any time, Liens in respect of property of any Loan Party or any Subsidiary permitted to exist at such time pursuant to the terms of Section 7.01.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Plan” means any employee benefit plan within the meaning of Section 3(3) of ERISA (including a Pension Plan, but other than a Multiemployer Plan), maintained for employees of the Borrower or any such Plan to which the Borrower is required to contribute on behalf of any of its employees.

“Platform” has the meaning specified in Section 6.02.

“Pro Forma Basis” means, with respect to any Specified Transaction, that for purposes of calculating the financial covenants set forth in Section 7.11, such Specified Transaction (including the incurrence of any Indebtedness therewith) shall be deemed to have occurred as of the first day of the most recent four fiscal quarter period preceding the date of such Specified Transaction for which financial statements were required to be delivered pursuant to Section 6.01(a) or 6.01(b). In connection with the foregoing, (a) with respect to any Disposition, (i) income statement and cash flow statement items (whether positive or negative) attributable to the property disposed of shall be excluded to the extent relating to any period occurring prior to the date of such Specified Transaction and (ii) Indebtedness which is retired shall be excluded and deemed to have been retired as of the first day of the applicable period and (b) with respect to any Acquisition, (i) income statement and cash flow statement items attributable to the Person or property acquired shall be included to the extent relating to any period applicable in such calculations to the extent (A) such items are not otherwise included in such income statement and cash flow statement items for the Borrower and its Subsidiaries in accordance with GAAP or in accordance with any defined terms set forth in Section 1.01 and (B) such items are supported by financial statements (if available) and such other information deemed necessary by a Responsible Officer in order to make a good faith determination (consistent with Article 11 of Regulation S-X of the Securities Act of 1933, as amended, as interpreted by the staff of the Securities and Exchange Commission) of such pro forma calculation and (ii) any Indebtedness incurred or assumed by the Borrower or any Subsidiary (including the Person or property acquired) in connection with such Specified Transaction and any Indebtedness of the Person or property acquired which is not retired in connection with such Specified Transaction (A) shall be deemed to have been incurred as of the first day of the applicable period and (B) if such Indebtedness has a floating or formula rate, shall have an implied rate of interest for the applicable period for purposes of this definition determined by utilizing the rate which is or would be in effect with respect to such Indebtedness as at the relevant date of determination.

“Pro Forma Compliance Certificate” means a certificate of a Responsible Officer of the Borrower containing reasonably detailed calculations of the financial covenants set forth in Section 7.11 recomputed as of the end of the period of the four fiscal quarters most recently ended for which the Borrower has delivered financial statements pursuant to Section 6.01(a) or (b) after giving effect to the applicable transaction on a Pro Forma Basis.

“Public Lender” has the meaning specified in Section 6.02.

“Recipient” means the Administrative Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder.

“Register” has the meaning specified in Section 11.06(c).

“Regulated Subsidiary” means any Subsidiary of the Borrower that is (i) registered as a broker dealer pursuant to Section 15 of the Securities Exchange Act of 1934 or that is regulated as a broker dealer or equivalent under any foreign securities law, (ii) that is registered as a Futures Commission Merchant (“FCM”), Introducing Broker (“IB”), Swap Exchange Facility (“SEF”) or other “registered entity” within the meaning of Section 1a(40) of the Commodity Exchange Act (7 U.S.C. 1 et seq.), or the equivalent under any foreign securities or commodities Law, or (iii) registered as a swap execution facility with the SEC or the CFTC.

“Regulation S-X” means Regulation S-X set forth in 17 C.F.R. Part 210 of the Securities Act of 1933.

“Related Parties” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person’s Affiliates.

“Reportable Event” means any of the events set forth in Section 4043(c) of ERISA, other than events for which the applicable notice period has been waived.

“Request for Credit Extension” means with respect to a Borrowing, conversion or continuation of Loans, a Loan Notice.

“Required Lenders” means, at any time, Lenders having Total Credit Exposures representing more than 50% of the Total Credit Exposures of all Lenders. The Total Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Lenders at any time.

“Resignation Effective Date” has the meaning specified in Section 9.06.

“Responsible Officer” means the chief executive officer, president, chief financial officer, treasurer, assistant treasurer, general partner, executive vice president, chief operating officer, chief administrative officer or controller of a Loan Party, and, solely for purposes of the delivery of incumbency certificates, the secretary or any 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 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. To the extent requested by the Administrative Agent, each Responsible Officer will provide an incumbency certificate and appropriate authorization documentation, in form and substance reasonably satisfactory to the Administrative Agent.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests of any Person, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, defeasance, acquisition, cancellation or termination of any such Equity Interests or on account of any return of capital to such Person’s stockholders, partners or members (or the equivalent Person thereof), or any option, warrant or other right to acquire any such dividend or other distribution or payment.

“Revolving Commitment” means, as to each Lender, its obligation to make Revolving Loans to the Borrower pursuant to Section 2.01 in the amount set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption or other documentation pursuant to which such Lender becomes a party hereto, as applicable.

“Revolving Credit Exposure” means, as to any Lender at any time, the aggregate principal amount at such time of its outstanding Revolving Loans.

“Revolving Loan” has the meaning specified in Section 2.01(a).

“S&P” means Standard & Poor’s Financial Services LLC, a subsidiary of The McGraw Hill Companies, Inc. and any successor thereto.

“Sale and Leaseback Transaction” means, with respect to any Person, any arrangement, directly or indirectly, whereby such Person shall sell or transfer any property used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold or transferred.

“Sanction(s)” means any sanction administered or enforced by the United States Government, including OFAC, the United Nations Security Council, the European Union, Her Majesty’s Treasury (“HMT”) or other relevant sanctions authority.

“SEC” means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

“Securitization Transaction” means, with respect to any Person, any financing transaction or series of financing transactions (including factoring arrangements) pursuant to which such Person or any Subsidiary of such Person may sell, convey or otherwise transfer, or grant a security interest in, accounts, payments, receivables, rights to future lease payments or residuals or similar rights to payment to a special purpose subsidiary or affiliate of such Person.

“SEF” has the meaning set forth in the definition of “Regulated Subsidiary.”

“Seller Financing” has the meaning set forth in Section 4.01(f).

“Significant Subsidiary” has the meaning given to such term in Regulation S-X.

“Solvent” or “Solvency” means, with respect to any Person as of a particular date, that on such date (a) such Person is able to pay its debts and other liabilities, contingent obligations and other commitments as they mature in the ordinary course of business, (b) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person’s ability to pay such debts and liabilities as they mature in the ordinary course of business, (c) such Person is not engaged in a business or a transaction, and is not about to engage in a business or a transaction, for which such Person’s

property would constitute unreasonably small capital, (d) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person and (e) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

“Specified Transaction” means (a) any Acquisition of property or series of related acquisitions of property that (i) constitutes assets comprising all or substantially all of an operating unit of a business or constitutes all or substantially all of the common stock of a Person and (ii) involves the payment of consideration by the Borrower and its Subsidiaries in excess of the greater of \$50,000,000 and 4.5% of Consolidated Net Worth (as of the date of such Acquisition), (b) any Disposition of property or series of related Dispositions of property that (i) constitutes assets comprising all or substantially all of an operating unit of a business or constitutes all or substantially all of the common stock of a Person and (ii) yields gross proceeds to the Borrower or any of its Subsidiaries in excess of the greater of \$50,000,000 and 4.5% of Consolidated Net Worth (as of the date of such Disposition) and (c) any other Acquisition or Disposition designated by the Borrower as a “Specified Transaction” as of any fiscal quarter-end; provided that if the Borrower designates any Acquisition or Disposition as a Specified Transaction as of such fiscal quarter-end, then it must designate all Acquisitions and Dispositions consummated during the twelve month period prior to such designation as Specified Transactions.

“Subsidiary” of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which (a) a majority of the shares of Voting Stock is at the time beneficially owned by such Person and (b) is required to be consolidated into the financial statements of such Person in accordance with GAAP. Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of the Borrower.

“Swap Contract” 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 Termination Value” means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts 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 Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts (which may include a Lender or any Affiliate of a Lender).

“Synthetic Lease Obligation” means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease, or (b) an agreement for the use or possession of property creating obligations that do not appear on the balance sheet of such Person but which, upon the insolvency or bankruptcy of such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).

“Taxes” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Term Loan Facility” has the meaning set forth in Section 4.01(e).

“Threshold Amount” means \$60,000,000.

“Total Credit Exposure” means, as to any Lender at any time, the unused Commitments of such Lender at such time and the outstanding Loans of such Lender at such time.

“Total Revolving Outstandings” means the aggregate Outstanding Amount of all Revolving Loans.

“Type” means, with respect to any Loan, its character as a Base Rate Loan or a Eurodollar Rate Loan.

“United States” and “U.S.” mean the United States of America.

“U.S. Person” means any Person that is a “United States Person” as defined in Section 7701(a)(30) of the Internal Revenue Code.

“U.S. Tax Compliance Certificate” has the meaning specified in Section 3.01(e)(ii)(B)(3).

“Voting Stock” means, with respect to any Person, Equity Interests issued by such Person the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of directors (or persons performing similar functions) of such Person, even though the right so to vote has been suspended by the happening of such a contingency.

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

1.02 Other Interpretive Provisions .

With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) 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 or other

document (including any Loan Document or Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, modified, extended, restated, replaced or supplemented from time to time (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person's successors and assigns, (iii) the words "hereto," "herein," "hereof" and "hereunder," and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Preliminary Statements, Exhibits and Schedules shall be construed to refer to Articles and Sections of, Preliminary Statements of and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any Law shall include all statutory and regulatory rules, regulations, orders and provisions consolidating, amending, replacing or interpreting such Law and any reference to any Law or regulation shall, unless otherwise specified, refer to such Law or regulation as amended, modified, extended, restated, replaced or supplemented from time to time, and (vi) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all assets and properties, tangible and intangible, real and personal, including cash, securities, accounts and contract rights.

(b) 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."

(c) 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.

1.03 Accounting Terms .

(a) Generally. 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 on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Audited Financial Statements, except as otherwise specifically prescribed herein. Notwithstanding the foregoing, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, Indebtedness of the Borrower and its Subsidiaries shall be deemed to be carried at 100% of the outstanding principal amount thereof, and the effects of FASB ASC 825 on financial liabilities shall be disregarded.

(b) Changes in GAAP. If at any time any change in GAAP (including the adoption of IFRS) would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Borrower shall provide to the Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP. Without limiting the foregoing, leases shall continue to be

classified and accounted for on a basis consistent with that reflected in the Audited Financial Statements for all purposes of this Agreement, notwithstanding any change in GAAP relating thereto, unless the parties hereto shall enter into a mutually acceptable amendment addressing such changes, as provided for above.

(c) Calculations. Notwithstanding the above, the parties hereto acknowledge and agree that all calculations of the financial covenants in Section 7.11 shall be made on a Pro Forma Basis with respect to any Specified Transaction.

1.04 Rounding.

Any financial ratios required to be maintained by the Borrower pursuant to 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).

1.05 Times of Day; Rates.

Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable). 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 “Eurodollar Rate” or with respect to any comparable or successor rate thereto.

ARTICLE II

THE COMMITMENTS AND CREDIT EXTENSIONS

2.01 Revolving Loans.

(a) Subject to the terms and conditions set forth herein, each Lender severally agrees to make loans (each such loan, a “Revolving Loan”) to the Borrower in Dollars from time to time on any Business Day during the Availability Period in an aggregate amount not to exceed at any time outstanding the amount of such Lender’s Revolving Commitment; provided, however, that after giving effect to any Borrowing of Revolving Loans, (i) the Total Revolving Outstandings shall not exceed the Aggregate Revolving Commitments, and (ii) the Revolving Credit Exposure of any Lender shall not exceed such Lender’s Revolving Commitment. Within the limits of each Lender’s Revolving Commitment, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.01, prepay under Section 2.05, and reborrow under this Section 2.01. Revolving Loans may be Base Rate Loans or Eurodollar Rate Loans, or a combination thereof, as further provided herein.

(b) Increases of the Aggregate Revolving Commitments. The Borrower shall have the right, upon at least five Business Days’ prior written notice to the Administrative Agent, to increase the Aggregate Revolving Commitments in one or more increases, at any time prior to the date that is sixty days prior to the Maturity Date, subject, however, in any such case, to satisfaction of the following conditions precedent:

- (i) the Aggregate Revolving Commitments shall not exceed \$400,000,000 without the consent of the Required Lenders;

(ii) no Default shall have occurred and be continuing on the date on which such increase is to become effective;

(iii) the representations and warranties set forth in Article V shall be true and correct in all material respects (or, if any such representation or warranty is qualified by materiality or Material Adverse Effect, it shall be true and correct in all respects as drafted) on and as of the date on which such increase is to become effective, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects (or, if any such representation or warranty is qualified by materiality or Material Adverse Effect, it shall be true and correct in all respects as drafted) as of such earlier date;

(iv) after giving effect to such increase and any Borrowings in connection therewith, the Borrower will be in pro forma compliance with all of the covenants in Section 7.11;

(v) such increase shall be in a minimum amount of \$10,000,000 and in integral multiples of \$5,000,000 in excess thereof;

(vi) such requested increase shall only be effective upon receipt by the Administrative Agent of (A) additional Revolving Commitments in a corresponding amount of such requested increase from either existing Lenders and/or one or more other institutions that qualify as Eligible Assignees (it being understood and agreed that no existing Lender shall be required to provide an additional Revolving Commitment) and (B) documentation from each institution providing an additional Revolving Commitment evidencing its additional Revolving Commitment and its obligations under this Agreement in form and substance reasonably acceptable to the Administrative Agent;

(vii) the Administrative Agent shall have received all documents (including resolutions of the board of directors of the Borrower) it may reasonably request relating to the corporate or other necessary authority for such increase and the validity of such increase in the Aggregate Revolving Commitments, and any other matters relevant thereto, all in form and substance reasonably satisfactory to the Administrative Agent; and

(viii) if any Revolving Loans are outstanding at the time of the increase in the Aggregate Revolving Commitments, the Borrower shall, if applicable, prepay one or more existing Revolving Loans (such prepayment to be subject to Section 3.05) in an amount necessary such that after giving effect to the increase in the Aggregate Revolving Commitments, each Lender will hold its pro rata share (based on its Applicable Percentage of the increased Aggregate Revolving Commitments) of outstanding Revolving Loans.

For avoidance of doubt, it is understood and agreed that, as of the Closing Date, there does not exist any availability to increase the Aggregate Revolving Commitments pursuant to this Section 2.01(b).

2.02 Borrowings, Conversions and Continuations of Loans.

(a) Each Borrowing, each conversion of Loans from one Type to the other, and each continuation of Eurodollar Rate Loans shall be made upon the Borrower's irrevocable notice to the Administrative Agent, which may be given by (A) telephone, or (B) a Loan Notice; provided that any telephonic notice must be confirmed immediately by delivery to the Administrative Agent of a Loan Notice. Each such Loan Notice must be received by the Administrative Agent not later than 11:00 a.m. (i) three Business Days prior to the requested date of any Borrowing of, conversion to or continuation of, Eurodollar Rate Loans or of any conversion of Eurodollar Rate Loans to Base Rate Loans, and (ii) on the requested date of any Borrowing of Base Rate Loans. Each Borrowing of, conversion to or continuation of Eurodollar Rate Loans shall be in a principal amount of \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof. Each Borrowing of or conversion to Base Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof. Each Loan Notice shall specify (i) whether the Borrower is requesting a Borrowing, a conversion of Loans from one Type to the other, or a continuation of Eurodollar Rate Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Loans to be borrowed, converted or continued, (iv) the Type of Loans to be borrowed or to which existing Loans are to be converted, and (v) if applicable, the duration of the Interest Period with respect thereto. If the Borrower fails to specify a Type of a Loan in a Loan Notice or if the Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Loans shall be made as, or converted to, Base Rate Loans. Any such automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurodollar Rate Loans. If the Borrower requests a Borrowing of, conversion to, or continuation of Eurodollar Rate Loans in any Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month.

(b) Following receipt of a Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Applicable Percentage of the applicable Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans described in the preceding subsection. In the case of a Borrowing, each Lender shall make the amount of its Loan available to the Administrative Agent in immediately available funds at the Administrative Agent's Office not later than 1:00 p.m. on the Business Day specified in the applicable Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02 (and, if such Borrowing is the initial Credit Extension, Section 4.01), the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrower on the books of Bank of America with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Borrower.

(c) Except as otherwise provided herein, a Eurodollar Rate Loan may be continued or converted only on the last day of the Interest Period for such Eurodollar Rate Loan. During the existence of a Default, no Loans may be requested as, converted to or continued as Eurodollar Rate Loans without the consent of the Required Lenders, and unless repaid, each outstanding Eurodollar Rate Loan shall be converted to a Base Rate Loan at the end of the Interest Period applicable thereto.

(d) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for Eurodollar Rate Loans upon determination of such interest rate. At any time that Base Rate Loans are outstanding, the Administrative Agent shall notify the Borrower and the Lenders of any change in Bank of America's prime rate used in determining the Base Rate promptly following the public announcement of such change.

(e) After giving effect to all Borrowings, all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not be more than ten Interest Periods in effect.

(f) Notwithstanding anything to the contrary in this Agreement, any Lender may exchange, continue or rollover all of the portion of its Loans in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by the Borrower, the Administrative Agent and such Lender.

2.03 [Reserved].

2.04 [Reserved].

2.05 Prepayments .

The Borrower may, upon delivery of a Notice of Loan Prepayment from the Borrower to the Administrative Agent, at any time or from time to time voluntarily prepay Revolving Loans in whole or in part without premium or penalty; provided that (A) such notice must be in a form acceptable to the Administrative Agent and be received by the Administrative Agent not later than 11:00 a.m. (1) three Business Days prior to any date of prepayment of Eurodollar Rate Loans and (2) on the date of prepayment of Base Rate Loans; (B) any such prepayment of Eurodollar Rate Loans shall be in a principal amount of \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof (or, if less, the entire principal amount thereof then outstanding); and (C) any prepayment of Base Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof (or, if less, the entire principal amount thereof then outstanding). Each such notice shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid and, if Eurodollar Rate Loans are to be prepaid, the Interest Period(s) of such Loans. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's Applicable Percentage of such prepayment. If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein; provided that, if a notice of prepayment is given in connection with a conditional notice of termination of the Aggregate Revolving Commitments as contemplated by Section 2.06, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.06. Any prepayment of a Eurodollar Rate Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05. Subject to Section 2.15, each such prepayment shall be applied to the Loans of the Lenders in accordance with their respective Applicable Percentages.

2.06 Termination or Reduction of Aggregate Revolving Commitments .

The Borrower may, upon notice to the Administrative Agent, terminate the Aggregate Revolving Commitments, or from time to time permanently reduce the Aggregate Revolving Commitments; provided that (i) any such notice shall be received by the Administrative Agent not later than 11:00 a.m. three Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of \$5,000,000 or any whole multiple of \$1,000,000 in excess thereof, and (iii) the Borrower shall not terminate or reduce the Aggregate Revolving Commitments if, after giving effect thereto and to any concurrent prepayments hereunder, the Total Revolving Outstandings would exceed the Aggregate Revolving Commitments. The Administrative Agent will promptly notify the Lenders of any such notice of termination or reduction of the Aggregate Revolving Commitments. Any reduction of the Aggregate Revolving Commitments shall be applied to the Revolving Commitment of each Lender according to its Applicable Percentage. All fees accrued until the effective date of any termination of the Aggregate Revolving Commitments shall be paid on the effective date of such termination.

Notwithstanding the foregoing, a notice of termination of the Aggregate Revolving Commitments delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied.

2.07 Repayment of Loans .

(a) The Borrower shall repay to the Lenders on the Maturity Date the aggregate principal amount of all Revolving Loans and all other Obligations outstanding on such date.

(b) In the event a Change of Control occurs, (i) the Borrower shall promptly thereafter repay to the Lenders the aggregate principal amount of all Revolving Loans and all other Obligations outstanding on such date and (ii) the Commitments of each Lender shall be terminated.

2.08 Interest .

(a) Subject to the provisions of subsection (b) below, (i) each Eurodollar Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the sum of the Eurodollar Rate for such Interest Period plus the Applicable Rate and (ii) each Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the sum of the Base Rate plus the Applicable Rate.

(b) (i) If any amount of principal of any Loan is not paid when due, whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(ii) If any amount (other than principal of any Loan) payable by the Borrower under any Loan Document is not paid when due, whether at stated maturity, by acceleration or otherwise, then upon the request of the Required Lenders, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(iii) Upon the request of the Required Lenders, while any Event of Default exists (other than as set forth in clauses (b)(i) and (b)(ii) above), the Borrower shall pay interest on the principal amount of all outstanding Obligations hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(iv) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

2.09 Fees.

(a) Commitment Fee. The Borrower shall pay to the Administrative Agent, for the account of each Lender in accordance with its Applicable Percentage, a commitment fee equal to the product of (i) the Applicable Rate times (ii) the actual daily amount by which the Aggregate Revolving Commitments exceed the Outstanding Amount of Revolving Loans, subject to adjustment as provided in Section 2.15. The commitment fee shall accrue at all times during the Availability Period, including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the Closing Date, and on the last day of the Availability Period. The commitment fee shall be calculated quarterly in arrears, and if there is any change in the Applicable Rate during any quarter, the actual daily amount shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect.

(b) Other Fees. The Borrower shall pay to the Lenders such fees as shall have been separately agreed upon in writing in the amounts and at the times so specified, including, without limitation, as set forth in the Fee Letter. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

2.10 Computation of Interest and Fees.

All computations of interest for Base Rate Loans (including Base Rate Loans determined by reference to the Eurodollar Rate) shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

2.11 Evidence of Debt.

The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and by the Administrative Agent in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a promissory note, which shall evidence such Lender's Loans in addition to such accounts or records. Each such promissory note shall be in the form of Exhibit 2.11 (a "Note"). Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

2.12 Payments Generally; Administrative Agent's Clawback;etc.

(a) General. All payments to be made by the Borrower shall be made free and clear of and without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in immediately available funds not later than 2:00 p.m. on the date specified herein. The Administrative Agent will promptly distribute to each Lender its Applicable Percentage (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 2:00 p.m. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(b) (i) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Eurodollar Rate Loans (or, in the case of any Borrowing of Base Rate Loans, prior to 12:00 noon on the date of such 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 Section 2.02 (or, in the case of a Borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.02) and may, in reliance upon such assumption, 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 and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in immediately available funds with interest thereon, 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 (A) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing, and (B) in the case of a payment to be made by the Borrower, the interest rate applicable to Base Rate Loans. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(ii) Payments by Borrower; Presumptions by Administrative Agent. 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 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, distribute to the Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender, 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 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 the Borrower with respect to any amount owing under this subsection (b) shall be conclusive, absent manifest error.

(c) Failure to Satisfy Conditions Precedent. If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) Obligations of Lenders Several. The obligations of the Lenders hereunder to make Loans and to make payments pursuant to Section 11.04(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 11.04(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and 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 11.04(c).

(e) Funding Source. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

(f) Lender ERISA Issues. Each Lender as of the Closing Date represents and warrants as of the Closing Date to the Administrative Agent and the Joint Lead Arrangers and their respective Affiliates, and not, for the avoidance of doubt, for the benefit of the Borrower or any other Loan Party, that (i) such Lender is not and will not be (A) an employee benefit plan subject to Title I of ERISA; (B) a plan or account subject to Section 4975 of the Code; or (C) a “governmental plan” within the meaning of ERISA; and (ii) the assets used by such Lender’s Commitment do not include “plan assets” of any such plans or accounts for purposes of ERISA or the Code.

2.13 Sharing of Payments by Lenders

If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of the Loans made by it resulting in such Lender’s receiving payment of a proportion of the aggregate amount of such Loans and accrued interest thereon greater than its pro rata share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Loans, or make such other adjustments as shall be equitable, 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 and other amounts owing them, provided that:

(i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section shall not be construed to apply to (A) any payment made by or on behalf of the Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender) or (B) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant, other than an assignment to the Borrower or any Subsidiary (as to which the provisions of this Section shall apply).

Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Loan Party in the amount of such participation.

2.14 [Reserved].

2.15 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 applicable 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 the definition of "Required Lenders" and Section 11.01.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 11.08 shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, as the Borrower may request (so long as no Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; third, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement; fourth, to the payment of any amounts owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; fifth, so long as no Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and sixth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction. 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 pursuant to this Section 2.15(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees. No Defaulting Lender shall be entitled to receive any fee payable under Section 2.09(a) for any period during which that 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 that Defaulting Lender).

(b) Defaulting Lender Cure. If the Borrower and the Administrative Agent agree in writing that a Lender is no longer a Defaulting Lender, 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, that Lender will, to the extent applicable, purchase at par 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 to be held on a pro rata basis by the Lenders in accordance with their Applicable Percentages, whereupon such 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 Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

ARTICLE III

TAXES, YIELD PROTECTION AND ILLEGALITY

3.01 Taxes.

(a) Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes.

(i) 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, except as required by applicable Laws. If any applicable Laws (as determined in the good faith discretion of the Administrative Agent) require the deduction or withholding of any Tax from any such payment by the Administrative Agent or a Loan Party, then the Administrative Agent or such Loan Party shall be entitled to make such deduction or withholding, upon the basis of the information and documentation to be delivered pursuant to subsection (e) below.

(ii) If any Loan Party or the Administrative Agent shall be required by the Internal Revenue Code to withhold or deduct any Taxes, including both United States Federal backup withholding and withholding taxes, from any payment, then (A) the Administrative Agent shall withhold or make such deductions as are determined by the Administrative Agent to be required based upon the information and documentation it has received pursuant to subsection (e) below, (B) the Administrative Agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with the Internal Revenue Code, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Loan Party shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 3.01) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(iii) If any Loan Party or the Administrative Agent shall be required by any applicable Laws other than the Internal Revenue Code to withhold or deduct any Taxes from any payment, then (A) such Loan Party or the Administrative Agent, as required by such Laws, shall withhold or make such deductions as are determined by it to be required based upon the information and documentation it has received pursuant to subsection (e) below, (B) such Loan Party or the Administrative Agent, to the extent required by such Laws, shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with such Laws, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Loan Party shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 3.01) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(b) Payment of Other Taxes by the Loan Parties. Without limiting the provisions of subsection (a) above, the Loan Parties shall timely pay to the relevant Governmental Authority in accordance with applicable Laws, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(c) Tax Indemnifications. (i) Each of the Loan Parties shall, and does hereby, jointly and severally indemnify each Recipient, and shall make payment in respect thereof within ten days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error. Each of the Loan Parties shall, and does hereby, jointly and severally indemnify the Administrative Agent, and shall make payment in respect thereof within ten days after demand therefor, for any amount which a Lender for any reason fails to pay indefeasibly to the Administrative Agent as required pursuant to Section 3.01(c)(ii) below.

(ii) Each Lender shall, and does hereby, severally indemnify, and shall make payment in respect thereof within 10 days after demand therefor, (x) the Administrative Agent against 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 obligation of the Loan Parties to do so), (y) the Administrative Agent and the Loan Parties, as applicable, against any Taxes attributable to such Lender's failure to comply with the provisions of Section 11.06(d) relating to the maintenance of a Participant Register and (z) the Administrative Agent and the Loan Parties, as applicable, against any Excluded Taxes attributable to such Lender that are payable or paid by the Administrative Agent or a Loan Party 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 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 clause (ii).

(d) Evidence of Payments. As soon as practicable, after any payment of Taxes by any Loan Party to a Governmental Authority as provided in this Section 3.01, such Loan Party 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 any return required by Laws to report such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) Status of Lenders: Tax Documentation.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable Law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 3.01(e)(ii)(A), 3.01(e)(ii)(B) and 3.01(e)(ii)(D) below) 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.

(ii) Without limiting the generality of the foregoing, in the event that the Borrower is a U.S. Person,

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(1) in the case of a Foreign 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 any Loan Document, executed copies of IRS Form W-8BENE (or W-8BEN, as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BENE (or W-8BEN, as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;

(2) executed copies of IRS Form W-8ECI;

(3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Internal Revenue Code, (x) a certificate substantially in the form of Exhibit 3.01-A to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Internal Revenue Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Internal Revenue Code (a “U.S. Tax Compliance Certificate”) and (y) executed copies of IRS Form W-8BENE (or W-8BEN, as applicable); or

(4) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BENE (or W-8BEN, as applicable), a U.S. Tax Compliance Certificate substantially in the form of Exhibit 3.01-B or Exhibit 3.01-C, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit 3.01-D on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of any other form prescribed by applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable Law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal 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 Internal Revenue

Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by Law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Internal Revenue Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the Closing Date.

(iii) Each Lender agrees that if any form or certification it previously delivered pursuant to this Section 3.01 expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(f) Treatment of Certain Refunds. Unless required by applicable Laws, at no time shall the Administrative Agent have any obligation to file for or otherwise pursue on behalf of a Lender, or have any obligation to pay to any Lender, any refund of Taxes withheld or deducted from funds paid for the account of such Lender. If any Recipient determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified by any Loan Party or with respect to which any Loan Party has paid additional amounts pursuant to this Section 3.01, it shall pay to the Loan Party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by a Loan Party under this Section 3.01 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) incurred by such Recipient, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Loan Party, upon the request of the Recipient, agrees to repay the amount paid over to the Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Recipient in the event the Recipient is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this subsection, in no event will the applicable Recipient be required to pay any amount to the Loan Party pursuant to this subsection the payment of which would place the Recipient in a less favorable net after-Tax position than such Recipient would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This subsection shall not be construed to require any Recipient to make available its tax returns (or any other information relating to its taxes that it deems confidential) to any Loan Party or any other Person.

(g) Survival. Each party's obligations under this Section 3.01 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Aggregate Revolving Commitments and the repayment, satisfaction or discharge of all other Obligations.

3.02 Illegality.

If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its Lending Office to perform any of its obligations hereunder or make, maintain or fund or charge interest with respect to any Credit Extensions or to determine or charge interest rates based upon the Eurodollar Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, (i) any obligation of such Lender to issue, make, maintain, fund or charge interest with respect to any such Credit Extension or continue Eurodollar Rate Loans or to convert Base Rate Loans to Eurodollar Rate Loans shall be suspended and (ii) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the Eurodollar Rate component of the Base Rate, the interest rate on which Base Rate Loans of such Lender, shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurodollar Rate component of the 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 demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Eurodollar Rate Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurodollar Rate component of the Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Rate Loans and (y) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Eurodollar Rate, the Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the Eurodollar 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 Eurodollar Rate. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

3.03 Inability to Determine Rates.

(a) If in connection with any request for a Eurodollar Rate Loan or a conversion to or continuation thereof, (i) the Administrative Agent determines that (A) Dollar deposits are not being offered to banks in the London interbank eurodollar market for the applicable amount and Interest Period of such Eurodollar Rate Loan, or (B) adequate and reasonable means do not exist for determining the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan or in connection with an existing or proposed Base Rate Loan (in each case with respect to clause (i), “Impacted Loans”), or (ii) the Administrative Agent or the Required Lenders determine that for any reason the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Eurodollar Rate Loan, the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Eurodollar Rate Loans shall be suspended (to the extent of the affected Eurodollar Rate Loans or Interest Periods), and (y) in the event of a determination described in the preceding sentence with respect to the Eurodollar Rate component of the Base Rate, the utilization of the Eurodollar Rate component in determining the Base Rate shall be suspended, in each case until the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurodollar Rate Loans (to the extent of the affected Eurodollar Rate Loans or Interest Periods) or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans in the amount specified therein.

(b) Notwithstanding the foregoing, if the Administrative Agent has made the determination described in clause (a)(i) of this Section, the Administrative Agent, in consultation with the Borrower and the affected Lenders, may establish an alternative interest rate for the Impacted Loans, in which case, such alternative rate of interest shall apply with respect to the Impacted Loans until (1) the Administrative Agent revokes the notice delivered with respect to the Impacted Loans under clause (a)(i) of this Section, (2) the Administrative Agent or the Required Lenders notify the Borrower that such alternative interest rate does not adequately and fairly reflect the cost to such Lenders of funding the Impacted Loans, or (3) any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to such alternative rate of interest or to determine or charge interest rates based upon such rate or any Governmental Authority has imposed material restrictions on the authority of such Lender to do any of the foregoing and provides the Administrative Agent and the Borrower written notice thereof.

3.04 Increased Costs; Reserves on Eurodollar Rate Loans .

(a) Increased Costs Generally . 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 or participated in by, any Lender (except any reserve requirement contemplated by Section 3.04(d);

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income 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 the London interbank market any other condition, cost or expense affecting this Agreement or Eurodollar Rate Loans made by such Lender;

and the result of any of the foregoing shall be to increase the cost to such Lender of making, converting to, continuing or maintaining any Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender, or to reduce the amount of any sum received or receivable by such Lender (whether of principal, interest or any other amount) then, upon request of such Lender, the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered.

(b) Capital Requirements . If any Lender determines that any Change in Law affecting such Lender or any Lending Office of such Lender or such Lender's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by such Lender, to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy), then from time to time the Borrower will pay to such Lender, as the case may be, such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and 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 ten days after receipt thereof.

(d) Reserves on Eurodollar Rate Loans. The Borrower shall pay to each Lender, as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including eurocurrency funds or deposits (currently known as "Eurocurrency liabilities"), additional interest on the unpaid principal amount of each Eurodollar Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive), which shall be due and payable on each date on which interest is payable on such Loan, provided the Borrower shall have received at least ten (10) days' prior notice (with a copy to the Administrative Agent) of such additional interest or costs from such Lender. If a Lender fails to give notice ten (10) days prior to the relevant Interest Payment Date, such additional interest shall be due and payable ten (10) days from receipt of such notice.

(e) Delay in Requests. Failure or delay on the part of any Lender to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender's right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than nine months prior to the date that such Lender, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

3.05 Compensation for Losses.

Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Eurodollar Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Eurodollar Rate Loan on the date or in the amount notified by the Borrower; or

(c) any assignment of a Eurodollar Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 11.13;

including any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained (but excluding any loss of anticipated profits). The Borrower shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by the Borrower to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each Eurodollar Rate Loan made by it at the Eurodollar Rate used in determining the Eurodollar Rate for such Loan by a matching deposit or other borrowing in the London interbank eurodollar market for a comparable amount and for a comparable period, whether or not such Eurodollar Rate Loan was in fact so funded.

3.06 Mitigation Obligations; Replacement of Lenders.

(a) Designation of a Different Lending Office. Each Lender may make any Credit Extension to the Borrower through any Lending Office, provided that the exercise of this option shall not affect the obligation of the Borrower to repay the Credit Extension in accordance with the terms of this Agreement. If any Lender requests compensation under Section 3.04, or requires the Borrower to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then at the request of the Borrower such Lender shall use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) Replacement of Lenders. If any Lender requests compensation under Section 3.04, or if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01 and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with Section 3.06(a), the Borrower may replace such Lender in accordance with Section 11.13.

3.07 Survival.

All of the Loan Parties' obligations under this Article III shall survive termination of the Aggregate Revolving Commitments, repayment of all other Obligations hereunder, and resignation of the Administrative Agent.

ARTICLE IV

CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

4.01 Conditions of Initial Credit Extension.

This Agreement shall become effective upon, and the obligation of each Lender to make its initial Credit Extension hereunder is subject to, the satisfaction of the following conditions precedent:

(a) Documentation. Receipt by the Administrative Agent of the following, each in form and substance satisfactory to the Administrative Agent and each Lender:

(i) Loan Documents. Executed counterparts of this Agreement and the other Loan Documents, each properly executed by a Responsible Officer of the signing Loan Party and, in the case of this Agreement, by each Lender.

(ii) Opinions of Counsel. Favorable opinions of legal counsel to the Loan Parties, addressed to the Administrative Agent and each Lender, dated as of the Closing Date.

(iii) Organization Documents, Resolutions, Etc.

(A) copies of the Organization Documents of each Loan Party certified to be true and complete as of a recent date by the appropriate Governmental Authority of the state or other jurisdiction of its incorporation or organization, where applicable, and certified by a secretary or assistant secretary of such Loan Party to be true and correct as of the Closing Date;

(B) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party; and

(C) such documents and certifications as the Administrative Agent may reasonably require to evidence that each Loan Party is duly organized or formed, and is validly existing, in good standing and qualified to engage in business in its state of organization or formation

(iv) Audited Financial Statements. The Audited Financial Statements.

(v) Closing Certificate. A certificate signed by a Responsible Officer of the Borrower certifying that (A) the conditions specified in Sections 4.01(b) and (c) and 4.02(a) and 4.02(b) have been satisfied and (B) that there has been no event or circumstance since the date of the Audited Financial Statements that has had or would be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect.

(b) Litigation. Other than as disclosed in the Audited Financial Statements for the fiscal year ending December 31, 2016 or as set forth on Schedule 5.06, there shall not exist any action, suit, investigation or proceeding pending or, to the knowledge of the Borrower, threatened in any court or before an arbitrator or Governmental Authority that could reasonably be expected to have a Material Adverse Effect.

(c) Consents. All governmental, shareholder and third party consents and approvals necessary in connection with the transactions contemplated hereby shall have been obtained and all such consents and approvals shall be in force and effect.

(d) Existing Credit Agreement. Receipt by the Administrative Agent of evidence that all obligations under the existing Credit Agreement, dated as of February 25, 2016, among the Borrower, the Administrative Agent and the other lenders party thereto have been paid in full and all commitments thereunder terminated.

(e) Term Loan Facility. Receipt by the Administrative Agent of evidence that the Borrower has entered into (or is entering into simultaneously with this Agreement) a term loan agreement (the “Term Loan Facility”) on terms satisfactory to the Borrower and the Administrative Agent.

(f) Acquisition/Seller Financing. Receipt by the Administrative Agent of (i) evidence that the acquisition of Berkeley Point by the Borrower has occurred or is occurring simultaneously with this Agreement and (ii) evidence that any seller financing entered into in respect of the acquisition by the Borrower of Berkeley Point (the “Seller Financing”), if any, is on terms satisfactory to the Administrative Agent, including as to maturity, subordination and assignability.

(g) Fees. Receipt by the Administrative Agent, the Arrangers and the Lenders of any fees required to be paid on or before the Closing Date, including, but not limited to, the fees set forth in the Fee Letter.

(h) Attorney Costs. The Borrower shall have paid all reasonable fees, charges and disbursements of counsel to the Administrative Agent (directly to such counsel if requested by the Administrative Agent) to the extent invoiced prior to or on the Closing Date, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between the Borrower and the Administrative Agent).

Without limiting the generality of the provisions of the last paragraph of Section 9.03, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

4.02 Conditions to all Credit Extensions .

The obligation of each Lender to honor any Request for Credit Extension (other than a Loan Notice requesting only a conversion of Loans to the other Type, or a continuation of Eurodollar Rate Loans) is subject to the following conditions precedent:

(a) The representations and warranties of each Loan Party contained in Article V or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects (other than those representations and warranties qualified by materiality or Material Adverse Effect, in which case they shall be true and correct in all respects) on and as of the date of such Credit Extension, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects (other than those representations and warranties qualified by materiality or Material Adverse Effect, in which case they shall be true and correct in all respects) as of such earlier date.

(b) No Default shall exist, or would result from such proposed Credit Extension or from the immediate application of the proceeds thereof (if applicable) and the Borrower shall be in compliance with Section 7.11 as of the end of the most recently fiscal quarter for which financial statements have been delivered pursuant to Section 6.01 after giving effect to the proviso in the definition of Consolidated EBITDA.

(c) The Administrative Agent shall have received a Request for Credit Extension in accordance with the requirements hereof.

Each Request for Credit Extension (other than a Loan Notice requesting only a conversion of Loans to the other Type, or a continuation of Eurodollar Rate Loans) submitted by the Borrower shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a) and (b) have been satisfied on and as of the date of the applicable Credit Extension.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Administrative Agent and the Lenders that:

5.01 Existence, Qualification and Power

(a) Each Loan Party and each Significant Subsidiary (i) is duly organized or formed, validly existing and, as applicable, in good standing under the Laws of the jurisdiction of its incorporation or organization, (ii) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (A) own or lease its assets and carry on its business and (B) execute, deliver and perform its obligations under the Loan Documents to which it is a party, and (iii) is duly qualified and is licensed and, as applicable, in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license; except in each case referred to in clause (ii) (A) or (iii), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

(b) Each Subsidiary of the Borrower (other than a Significant Subsidiary) (i) is duly organized or formed, validly existing and, as applicable, in good standing under the Laws of the jurisdiction of its incorporation or organization, (ii) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to own or lease its assets and carry on its business and (iii) is duly qualified and is licensed and, as applicable, in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license, except, in each case, to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

5.02 Authorization; No Contravention

The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is party have been duly authorized by all necessary corporate or other organizational action, and do not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach or contravention of, or the creation of any Lien under, or require any payment to be made under (i) any Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (c) violate any Law.

5.03 Governmental Authorization; Other Consents .

No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document other than those that have already been obtained and are in full force and effect.

5.04 Binding Effect .

Each Loan Document has been duly executed and delivered by each Loan Party that is party thereto. Each Loan Document constitutes a legal, valid and binding obligation of each Loan Party that is party thereto, enforceable against each Loan Party that is party thereto in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

5.05 Financial Statements; No Material Adverse Effect .

(a) The financial statements delivered pursuant to Sections 6.01(a) and 6.01(b) (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present the financial condition of the Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein (subject, in the case of unaudited financial statements, to the absence of footnotes and to normal year-end audit adjustments); and (iii) show all material indebtedness and other liabilities, direct or contingent, of the Borrower and its Subsidiaries as of the date thereof, including liabilities for taxes, material commitments and Indebtedness.

(b) The Audited Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present the financial condition of the Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby (subject, in the case of unaudited financial statements, to the absence of footnotes and to normal year-end audit adjustments); and (iii) show all material indebtedness and other liabilities, direct or contingent, of the Borrower and its Subsidiaries as of the date thereof, including liabilities for taxes, material commitments and Indebtedness.

(c) Since December 31, 2016, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

5.06 Litigation .

Other than as disclosed in the Audited Financial Statements or as set forth on Schedule 5.06, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against any Loan Party or any Subsidiary or against any of their properties or revenues that (a) purport to affect or pertain to this Agreement or any other Loan Document, or any of the transactions contemplated hereby or (b) could reasonably be expected to have a Material Adverse Effect.

5.07 No Default.

No Default has occurred and is continuing.

5.08 Ownership of Property.

Each Loan Party and each of its Subsidiaries has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of its business, except for such defects in title as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

5.09 Taxes.

Each Loan Party and its Subsidiaries have filed all federal, state and other material tax returns and reports required to be filed, and have paid all federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except (a) those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP or (b) to the extent that the failure to do so could not reasonably be expected to result in a Material Adverse Effect. There is no proposed tax assessment against any Loan Party or any Subsidiary that would, if made, have a Material Adverse Effect. Other than as set forth on Schedule 5.09, no Loan Party is party to any tax sharing agreement with anyone.

5.10 ERISA Compliance.

(a) Except as would not reasonably be expected to have a Material Adverse Effect: (i) each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Internal Revenue Code and other federal or state Laws; (ii) each Pension Plan that is intended to be a qualified plan under Section 401(a) of the Internal Revenue Code has received a favorable determination letter from the IRS to the effect that the form of such Plan is qualified under Section 401(a) of the Internal Revenue Code and the trust related thereto has been determined by the IRS to be exempt from federal income tax under Section 501(a) of the Internal Revenue Code, or an application for such a letter is currently being processed by the IRS; and (iii) to the best knowledge of the Borrower, nothing has occurred that would reasonably be expected to prevent or cause the loss of such tax-qualified status.

(b) There are no pending or, to the knowledge of any Loan Party, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that would reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or would reasonably be expected to result in a Material Adverse Effect.

(c) Except as would not reasonably be expected to have a Material Adverse Effect: (i) No ERISA Event has occurred, and no Loan Party is aware of any fact, event or circumstance that could reasonably be expected to constitute or result in an ERISA Event with respect to any Pension Plan; (ii) each Loan Party and each ERISA Affiliate has met all applicable requirements under the Pension Funding Rules in respect of each Pension Plan, and no waiver of the minimum funding standards under the Pension Funding Rules has been applied for or obtained; (iii) as of the most recent valuation date for any Pension Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Internal Revenue Code) is 60% or higher and neither a Loan Party nor any ERISA Affiliate knows of any facts or circumstances that would reasonably be expected to cause the funding target attainment percentage for any such plan to drop below 60% as of the most recent valuation date; (iv) no Loan Party has incurred any liability to the PBGC

other than for the payment of premiums, and there are no premium payments which have become due that are unpaid; (v) neither a Loan Party nor any ERISA Affiliate has engaged in a transaction that would reasonably be expected to be subject to Section 4069 or Section 4212(c) of ERISA; and (vi) no Pension Plan has been terminated by the plan administrator thereof nor by the PBGC, and no event or circumstance has occurred or exists that would reasonably be expected to cause the PBGC to institute proceedings under Title IV of ERISA to terminate any Pension Plan.

(d) The Borrower is not and will not be (i) an employee benefit plan subject to Title I of ERISA; (ii) a plan or account subject to Section 4975 of the Code; (iii) an entity deemed to hold “plan assets” of any such plans or accounts for purposes of ERISA or the Code; or (iv) a “governmental plan” within the meaning of ERISA.

5.11 Subsidiaries.

Set forth on Schedule 5.11 is a complete and accurate list of (a) each Significant Subsidiary of the Borrower other than Regulated Subsidiaries, (b) each Subsidiary that is a Guarantor and (c) the jurisdiction of organization, exact legal name and U.S. tax payer identification number of the Borrower and each other Loan Party, in each case as of the Closing Date and as of the date of any update to Schedule 5.11 pursuant to Section 6.02(b).

5.12 Margin Regulations: Investment Company Act.

(a) Margin stock (as defined in Regulation U of the Board of Governors of the FRB) constitutes less than 25% of the value of those assets of the Borrower and its Subsidiaries (other than any Subsidiary which is an “exempted borrower” within the meaning of Regulation U of the FRB) which are subject to any limitation on sale, pledge, or other restriction hereunder. Neither the making of any Loan nor the use of the proceeds thereof will violate or be inconsistent with the provisions of Regulation T, Regulation U or Regulation X of the Board of Governors of the FRB.

(b) None of the Borrower, any Person Controlling the Borrower, or any Significant Subsidiary is or is required to be registered as an “investment company” under the Investment Company Act of 1940.

(c) Each domestic Regulated Subsidiary which is a broker dealer subject to the provisions of Regulation T of the FRB and extends purpose credit to customers (as those terms are defined in Regulation T) maintains procedures and internal controls reasonably designed to ensure that such Regulated Subsidiary does not extend or maintain purpose credit to or for its customers other than in accordance with the provisions of Regulation T, and members of each such domestic Regulated Subsidiary regularly supervise its activities and the activities of members and employees of such Regulated Subsidiary to ensure that such Regulated Subsidiary does not extend purpose credit to or for its customers other than in accordance with the provisions of Regulation T.

(d) Each Regulated Subsidiary (i) is a member in good standing of the FINRA, the NFA and/or the equivalent foreign self-regulatory body, (ii) (A) if a Domestic Subsidiary, (x) is duly registered as a broker-dealer with the SEC and/or duly registered as an FCM, IB or SEF with the CFTC, and (y) except where the failure to so register would not reasonably be expected to result in a Material Adverse Effect, is duly registered in each state where the conduct of its business requires such registration and (B) if a Foreign Subsidiary, is duly registered as with the appropriate foreign regulatory body, in each case where the conduct of its business requires such registration, except where the failure to so register would not reasonably be expected to result in a Material Adverse Effect.

5.13 Disclosure.

Neither any Loan Document nor any other agreement, document, instrument, certificate or statement (other than (i) any other projections, estimates, or other forward-looking information and (ii) any forward-looking pro forma financial information) furnished to the Administrative Agent and the Lenders by or on behalf of a Loan Party in connection with the transactions contemplated hereby, at the time it was furnished contained any untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements contained herein or therein, under the circumstances under which they were made, not misleading (considered in the context of all other information provided to the Lenders). Any projections, estimates, forward-looking information or any forward-looking pro forma financial information furnished to the Administrative Agent (whether in writing or orally) pursuant to this Agreement are based on good faith estimates and assumptions believed by management of Borrower or the applicable Loan Party to be reasonable at the time made, it being understood by the Administrative Agent and the Lenders that, without limiting the foregoing representation, (i) any information as it relates to future events is not to be viewed as fact, and (ii) actual results during the period or periods covered by such information are subject to significant uncertainties and contingencies and may differ materially from the projected results set forth therein.

5.14 Compliance with Laws.

Each Loan Party and each Subsidiary is in compliance with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

5.15 Intellectual Property; Licenses, Etc.

Each Loan Party and each Subsidiary owns, possesses or can acquire on reasonable terms the right to use, all of the trademarks, service marks, trade names, copyrights, patents and other intellectual property rights that are reasonably necessary for the operation of its businesses, without conflict with the rights of any other Person to the knowledge of such Loan Party or Subsidiary, except for any such failure to own or possess or conflict that could not reasonably be expected to have a Material Adverse Effect.

5.16 Solvency.

The Borrower is Solvent and the Borrower and its Subsidiaries are Solvent on a consolidated basis.

5.17 OFAC.

None of the Loan Parties, nor any of their Subsidiaries, nor, to the knowledge of the Loan Parties and their Subsidiaries, any director or officer, employee, agent, affiliate or representative thereof, is an individual or entity that is, or is owned or controlled by any individual or entity that is (i) currently the subject or target of any Sanctions, (ii) included on OFAC's List of Specially Designated Nationals, HMT's Consolidated List of Financial Sanctions Targets and the Investment Ban List, or any similar list enforced by any other relevant sanctions authority or (iii) located, organized or resident in a Designated Jurisdiction.

5.18 Anti-Corruption Laws

The Loan Parties and their Subsidiaries and, to the knowledge of the Borrower and its Subsidiaries, any director or officer have each conducted their businesses in material compliance with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, and other similar anti-corruption legislation in other jurisdictions and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

5.19 EEA Financial Institution

Neither the Borrower, nor any of its Subsidiaries is an EEA Financial Institution.

ARTICLE VI

AFFIRMATIVE COVENANTS

Until the Facility Termination Date, the Borrower shall:

6.01 Financial Statements

Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent:

(a) as soon as available, but in any event within one hundred and twenty days after the end of each fiscal year of the Borrower, commencing with the fiscal year ending December 31, 2017, (i) a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal year, together with the related consolidated statements of income or operations, changes in shareholders' equity and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, and in connection with the financial statements in clause (i) above, audited and accompanied by a report and opinion of an independent certified public accountant of nationally recognized standing reasonably acceptable to the Administrative Agent, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit and (ii) such other financial information regarding the Borrower and its Subsidiaries as reasonably requested by the Administrative Agent in order to determine compliance with Section 7.11; and

(b) as soon as available, but in any event within sixty days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower, commencing with the fiscal quarter ending September 30, 2017, (i) a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal quarter, together with the related consolidated statements of income or operations for such fiscal quarter and for the portion of the Borrower's fiscal year then ended, and the related consolidated statements of changes in shareholders' equity and cash flows for the portion of the Borrower's fiscal year then ended, in each case setting forth in comparative form, as applicable, the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail and certified by the chief executive officer, chief financial officer, treasurer or controller of the Borrower as fairly presenting the financial condition, results of operations, shareholders' equity and cash flows of the Borrower and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes and (ii) such other financial information regarding the Borrower and its Subsidiaries as reasonably requested by the Administrative Agent in order to determine compliance with Section 7.11.

As to any information contained in materials furnished pursuant to Section 6.02(c), the Borrower shall not be separately required to furnish such information under Section 6.01(a) or 6.01(b), but the foregoing shall not be in derogation of the obligation of the Borrower to furnish the information and materials described in Section 6.01(a) or 6.01(b) at the times specified therein.

6.02 Certificates; Other Information .

Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent and the Required Lenders:

(a) concurrently with the delivery of the financial statements referred to in Section 6.01(a), a certificate of its independent certified public accountants certifying such financial statements;

(b) concurrently with the delivery of the financial statements referred to in Sections 6.01(a) and 6.01(b), a duly completed Compliance Certificate signed by the chief executive officer, chief financial officer, treasurer or controller of the Borrower (which delivery may, unless the Administrative Agent, or a Lender requests executed originals, be by electronic communication including fax or email and shall be deemed to be an original authentic counterpart thereof for all purposes) which shall, among other things, (i) demonstrate compliance with the covenants set forth in Section 7.11 and (ii) update Schedule 5.11, as applicable;

(c) promptly after the same are available, copies of each annual report, each material proxy or material financial statement or other material report or communication sent to the public equityholders of any Loan Party or any Subsidiary, and copies of all material annual, regular, periodic and special reports and material registration statements which a Loan Party or any Subsidiary may file or be required to file with the SEC under Section 13 or 15(d) of the Securities Exchange Act of 1934, and not otherwise required to be delivered to the Administrative Agent pursuant hereto;

(d) promptly after any request by the Administrative Agent, copies of any material detailed audit reports or management letters submitted to the board of directors (or the audit committee of the board of directors) of the Borrower by independent accountants in connection with the accounts or books of the Borrower or any Subsidiary;

(e) [Reserved];

(f) promptly, and in any event within five Business Days after receipt thereof by the any Loan Party or any Subsidiary, copies of each notice or other correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdiction) concerning any investigation or possible investigation or other material inquiry by such agency regarding financial or other operational results of any Loan Party or any Subsidiary; and

(g) promptly, such additional information regarding the business, financial or corporate affairs of any Loan Party or any Subsidiary, or compliance with the terms of the Loan Documents, as the Administrative Agent or any Lender may from time to time reasonably request.

Documents required to be delivered pursuant to Section 6.01(a) or 6.01(b) or Section 6.02(c) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (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 11.02; or (ii) on which such documents are posted on the Borrower's behalf on an Internet or intranet website (including www.sec.gov/edgar.shtml), if any, to which each Lender and the Administrative Agent have 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 or any Lender upon its request to the Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (ii) the Borrower shall notify the Administrative Agent and each Lender (by facsimile or electronic mail) of the posting of any such documents and 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 to maintain paper copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request by a Lender for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Arrangers may, but shall not be obligated to, make available to the Lenders materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks, Syndtrak, ClearPar or a substantially similar electronic transmission system (the "Platform") and (b) certain of the Lenders (each a "Public Lender") may have personnel who do not wish to receive material non-public information with respect to the Borrower or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. The Borrower hereby agrees that (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent, the Arrangers and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to the Borrower or its securities for purposes of United States federal and state securities Laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 11.07); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information;" and (z) the Administrative Agent and the Arrangers shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated as "Public Side Information." Notwithstanding the foregoing, the Borrower shall be under no obligation to mark any Borrower Materials "PUBLIC."

6.03 Notices .

Promptly notify the Administrative Agent and each Lender of:

(a) the occurrence of any Default.

(b) any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect, including (i) breach or non-performance of, or any default under, a Contractual Obligation of a Loan Party or any Subsidiary; (ii) any dispute, litigation, investigation, proceeding or suspension between a Loan Party or any Subsidiary and any Governmental Authority; or (iii) the commencement of, or any material development in, any litigation or proceeding affecting a Loan Party or any Subsidiary, including pursuant to any applicable Environmental Laws.

(c) the occurrence of any ERISA Event that has had or that would reasonably be expected to result in a Material Adverse Effect.

(d) any material change in accounting policies or financial reporting practices by a Loan Party or any Subsidiary.

(e) any announcement by S&P or Fitch of any change in a Debt Rating of the Borrower.

Each notice pursuant to this Section 6.03 (other than clause (e)) shall be accompanied by a statement of a Responsible Officer of the Borrower setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto. Each notice pursuant to Section 6.03(a) shall describe with particularity any and all provisions of this Agreement and any other Loan Document that have been breached (if any).

6.04 Payment of Taxes .

Cause itself and each of its Subsidiaries to pay and discharge within thirty (30) days of the date the same shall become due and payable, all its tax liabilities, assessments and governmental charges or levies upon it or its properties, unless (a) the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by the Borrower or the applicable Subsidiary in connection therewith or (b) the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

6.05 Preservation of Existence, Etc .

Cause itself and each of its Subsidiaries to (a) except as permitted pursuant to Section 7.04, preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization; (b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and (c) preserve or renew all of its registered patents, trademarks, trade names and service marks, in each case, the non-preservation of which could reasonably be expected to have a Material Adverse Effect.

6.06 Maintenance of Properties .

Cause itself and each of its Subsidiaries to (a) maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear and casualty and condemnation excepted; and (b) make all necessary repairs thereto and renewals and replacements thereof, except, in the case of each of clauses (a) and (b) hereof, where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

6.07 Maintenance of Insurance .

Cause itself and each of its Subsidiaries to maintain with financially sound and reputable insurance companies not Affiliates of the Borrower, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons, except in instances where the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

6.08 Compliance with Laws .

(a) Cause itself and each of its Subsidiaries to comply in all material respects with the requirements of all Laws, including, without limitation, Environmental Laws, and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted; or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

(b) Cause each Broker-Dealer Subsidiary to comply with all material rules and regulations of the SEC, the FINRA and any equivalent foreign self-regulatory body, in each case, applicable to it (including such rules and regulations dealing with net capital requirements), except where the failure to so comply therewith could not reasonably be expected to have a Material Adverse Effect.

6.09 Books and Records .

Cause itself and each of its Subsidiaries to (a) maintain proper books of record and account in conformity with GAAP; and (b) maintain such books of record and account in material conformity with all applicable requirements of any Governmental Authority having regulatory jurisdiction over such Loan Party or such Subsidiary, as the case may be.

6.10 Inspection Rights .

Permit representatives and independent contractors of the Administrative Agent to visit and inspect any of its and its Subsidiaries' properties, 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, subject to the proviso below, at the sole expense of the Administrative Agent and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower; provided, however, that when an Event of Default exists the Administrative Agent (or any of its representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and without advance notice. It is understood and agreed that the Administrative Agent shall, at the request of any Lender, share with such Lender information resulting from any inspection under this Section 6.10.

6.11 Use of Proceeds .

Cause itself and each of its Subsidiaries to use the proceeds of the Credit Extensions to finance working capital and other lawful corporate purposes; provided that in no event shall the proceeds of the Credit Extensions be used in contravention of any Law or of any Loan Document.

6.12 Guarantors .

Within thirty (30) days (or such later date as the Administrative Agent may agree in its sole discretion) after the date that any Subsidiary agrees to Guarantee any Indebtedness of the Borrower (other than the Obligations), either (a) cause such Subsidiary to become a Guarantor hereunder by (i) executing and delivering to the Administrative Agent a Joinder Agreement and (ii) delivering to the Administrative Agent such Organization Documents, resolutions and, if requested by the Administrative Agent, favorable

opinions of counsel, all in form, content and scope reasonably satisfactory to the Administrative Agent or (b) provide a written certificate to the Administrative Agent acknowledging that all Indebtedness of such Subsidiary is subject to Section 7.03, specifying the amount of Indebtedness of such Subsidiary as of the date of the certificate and certifying that the Borrower is in compliance with Section 7.03 as of the date of the certificate.

6.13 Anti-Corruption Laws.

Cause itself and each of its Subsidiaries to conduct its businesses in material compliance with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and other similar anti-corruption legislation in other jurisdictions and maintain policies and procedures designed to promote and achieve compliance with such laws.

ARTICLE VII

NEGATIVE COVENANTS

Until the Facility Termination Date, no Loan Party shall, nor shall it permit any Subsidiary to, directly or indirectly:

7.01 Liens.

Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, other than the following:

(a) Liens existing on the Closing Date and listed on Schedule 7.01 and any renewals, extensions or replacements thereof; provided that the property covered thereby is not increased, and with respect to any replacement Lien, the amount of any Indebtedness secured by such Lien shall not be increased;

(b) Liens (other than Liens imposed under ERISA) for taxes, assessments or governmental charges or levies not yet due or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(c) Liens of carriers, warehousemen, mechanics, materialmen, workmen and repairmen or other like Liens arising in the ordinary course of business which are not overdue for a period of more than 30 days or which are being contested in good faith and by appropriate proceedings diligently conducted;

(d) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance, old age benefits, other social security obligations, taxes, assessments, statutory obligations and other similar charges, other than any Lien imposed by ERISA;

(e) (i) deposits to secure the performance of bids, tenders, trade contracts and leases (other than Indebtedness), statutory obligations, surety and appeal bonds, performance and return of money bonds, agreements with utilities and other obligations of a like nature incurred in the ordinary course of business (including in each case deposits and/or Liens securing letters of credit issued in lieu of any such cash deposits), and (ii) other cash deposits required to be made in the ordinary course of business, including those made to secure health, safety and environmental obligations in the ordinary course of business;

(f) easements, rights-of-way, restrictions and other similar encumbrances affecting real property which, in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person;

(g) Liens securing judgments for the payment of money (or appeal or other surety bonds relating to such judgments), which judgments do not constitute an Event of Default under Section 8.01(h), and the pledge of assets for the purpose of securing an appeal, stay or discharge in the course of any such legal proceeding;

(h) Liens securing Indebtedness permitted under Section 7.03(c); provided that (i) such Liens do not at any time encumber any property other than the property financed by such Indebtedness and (ii) with respect to Indebtedness permitted by Section 7.03(c)(i) such Liens attach to such property concurrently with or within ninety days after the acquisition thereof;

(i) leases or subleases granted to others not interfering in any material respect with the business of any Loan Party or any Subsidiary;

(j) any interest of title of a lessor under, and Liens arising from UCC financing statements (or equivalent filings, registrations or agreements in foreign jurisdictions) relating to, leases permitted by this Agreement;

(k) normal and customary rights of setoff and other Liens upon deposits of cash and securities in favor of banks, brokers or other financial institutions;

(l) Liens of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection;

(m) any Lien existing on property (and the proceeds thereof) existing at the time of its acquisition and any modification, replacement, renewal or extension thereof; provided that such Lien was not created in contemplation of such acquisition;

(n) Liens incurred or assumed in the ordinary course on cash, marketable securities, real estate loans (including related purchase commitments) commodities or other financial products to secure securities lending transactions at Regulated Subsidiaries and other stock lending transactions, repurchase agreements, and other collateralized financing transactions at Subsidiaries;

(o) pledges of securities or commodity positions and exchange memberships in the ordinary course of business;

(p) deposits or securities with commodity or securities exchanges or clearing organizations, or with other exchanges or markets, in each case in the ordinary course of business;

(q) Liens in favor of customers of Broker-Dealer Subsidiaries arising in the ordinary course of business and Liens securing indebtedness of Broker-Dealer Subsidiaries in respect of customer funds in the ordinary course of business;

(r) Liens securing Indebtedness permitted under Section 7.03(i);

(s) Liens on cash and marketable securities granted by Berkeley Point in favor of Fannie Mae under the Delegated Underwriting and Servicing Program and/or Freddie Mac under the Targeted Affordable Housing Program in respect of loss sharing arrangements, in each case in the ordinary course of business; and

(t) other Liens securing Indebtedness or other obligations in an aggregate principal amount not to exceed at any one time, the difference of \$40,000,000 less any Indebtedness incurred pursuant to Section 7.03(j).

7.02 Investments .

Make any Investments, except:

(a) Investments existing on the Closing Date set forth on Schedule 7.02;

(b) Investments in Cash Equivalents;

(c) Investments made by Regulated Subsidiaries in the ordinary course of business;

(d) Investments in marketable securities, loans, loan servicing rights, commodities, forwards, futures, derivatives and other assets in connection with trading, underwriting, loan origination, loan servicing, selling to customers, acting as a broker or acting as a market intermediary, all in the ordinary course of business;

(e) loans or advances to employees as part of compensation programs, and which are by their nature forgivable by the Borrower or relevant Subsidiary or purchases or redemption of equity interests from employees, former employees or consultants;

(f) travel advances and other similar cash advances made to employees in the ordinary course of business;

(g) Investments in Persons that are engaged in an Eligible Line of Business;

(h) Investments in (or Acquisitions of) Subsidiaries and other Persons that are not wholly-owned or are not engaged in an Eligible Line of Business in an amount not to exceed, in the aggregate, at any one time outstanding (net of the proceeds received from the sale of such Investments) the greater of \$50,000,000 and 4.5% of Consolidated Net Worth;

(i) Cash AD Loans; and

(j) Permitted Acquisitions.

7.03 Subsidiary Indebtedness.

Create, incur, assume or suffer to exist any Indebtedness of any Subsidiary of a Loan Party (other than any Subsidiary that is a Guarantor), except:

(a) Indebtedness outstanding on the Closing Date set forth on Schedule 7.03, including the Seller Financing, if any (and, with respect to any such Indebtedness, renewals, refinancings and extensions thereof); provided that (i) the amount of such Indebtedness is not increased above the original principal amount at the time of such refinancing, renewal or extension except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder and (ii) the terms relating to principal amount, amortization, maturity, collateral (if any) and subordination (if any), and other material terms taken as a whole, of any such refinancing, renewal or extension are no less favorable in any material respect to the Borrower and its Subsidiaries or the Lenders than the terms of the Indebtedness being refinanced, renewed or extended;

(b) obligations (contingent or otherwise) existing or arising under any Swap Contract, provided that such obligations are (or were) entered into by such Person for hedging purposes in the ordinary course of business, and not for purposes of speculation or taking a “market view”;

(c) (i) purchase money Indebtedness (including obligations in respect of capital leases and Synthetic Lease Obligations) hereafter incurred to finance the purchase of assets and renewals, refinancings and extensions thereof and (ii) Indebtedness hereafter incurred (including obligations in respect of capital leases and Synthetic Lease Obligations) that is secured by fixed assets and all renewals, refinancings and extensions thereof; provided that the aggregate outstanding principal amount of all such Indebtedness incurred pursuant to this clause (ii) shall not exceed \$60,000,000 at any one time outstanding;

(d) so long as the Borrower is in compliance with the financial covenants set forth in Section 7.11 on a pro forma basis after giving effect thereto, Indebtedness (i) of any Person that is merged or consolidated with and into any Subsidiary, (ii) of any Person that becomes a Subsidiary as a result of an Acquisition to the extent, in each case, that such Indebtedness was not incurred in connection with, or in contemplation of, such Person becoming a Subsidiary or (iii) consisting of customary performance based earn-out payments incurred in connection with an Acquisition;

(e) Indebtedness, including (i) securities lending transactions, at Regulated Subsidiaries and other stock lending transactions, repurchase agreements and other collateralized financing transactions at Subsidiaries, in each case (A) secured by marketable securities, real estate loans (including related purchase commitments) commodities or other financial products and (B) incurred in the ordinary course of business and (ii) borrowings by foreign Regulated Subsidiaries in connection with clearing or posting of margin requirements in the ordinary course of business;

(f) endorsement of items for deposit or collection of commercial paper received in the ordinary course of business;

(g) intercompany Indebtedness permitted under Section 7.02;

(h) obligations to purchase or redeem Equity Interests held by current or former partners, officers, directors, employees, consultants, service providers and their respective estates, spouses or former spouses in the ordinary course of business;

(i) Indebtedness, including Indebtedness incurred in connection with stock lending transactions, secured solely by shares of Intercontinental Exchange Inc. or NASDAQ held by the Borrower or its Subsidiaries at any time; provided that such Indebtedness shall be at customary advance rates and shall not exceed an aggregate principal amount equal to the underlying value of the shares securing such Indebtedness (the value of such shares to be determined as of the date such Indebtedness is incurred);

(j) Indebtedness of Newmark to the extent the proceeds thereof are used to pay outstanding amounts under the Term Loan Facility;

(k) Indebtedness in the form of (i) any “bad boy guaranties” (including any related environmental indemnity) provided in connection with real estate financings of Affiliates and (ii) Guarantees by Berkeley Point to Fannie Mae under the Delegated Underwriting and Servicing Program and/or Freddie Mac under the Targeted Affordable Housing Program in respect of loss sharing arrangements, in each case in the ordinary course of business; and

(l) other unsecured Indebtedness in an aggregate principal amount not to exceed the difference of \$40,000,000 less, without duplication, any Liens incurred pursuant to Section 7.01(t).

7.04 Fundamental Changes .

Merge, dissolve, liquidate or consolidate with or into another Person, except that (a) the Borrower may merge or consolidate with any of its Subsidiaries; provided that the Borrower shall be the continuing or surviving Person, (b) any Subsidiary may be merged or consolidated with or into any other Subsidiary; provided that if such merger or consolidation is with respect to a Subsidiary that is a Loan Party, then either such Loan Party shall be the continuing or surviving Person or such surviving Person shall become a Loan Party promptly after such merger or consolidation, (c) the Borrower or any of its Subsidiaries may merge or consolidate with any other Person; provided that (i) if the Borrower is a party to such transaction, the Borrower is the continuing or surviving Person and (ii) if such Subsidiary is a Loan Party, then either such Loan Party shall be the continuing or surviving Person or such surviving Person shall become a Loan Party promptly after such merger or consolidation and (d) any Subsidiary (other than a Loan Party) may dissolve, liquidate or wind up its affairs at any time provided that such dissolution, liquidation or winding up, as applicable, could not reasonably be expected to have a Material Adverse Effect.

7.05 Dispositions .

Make any Disposition except:

(a) Dispositions consisting of sales of marketable securities, loans, loan servicing rights, commodities, forwards, futures, derivatives and other assets in connection with trading, market making activities, loan origination and securitization, structured products and other financial services activities, and real estate businesses, in each case in the ordinary course of business;

(b) Dispositions by (i) any Subsidiary of the Borrower to the Borrower or any other Subsidiary and (ii) the Borrower to any, direct or indirect, wholly-owned Subsidiary of the Borrower;

(c) Dispositions of shares of Intercontinental Exchange Inc. and NASDAQ held by the Borrower or its Subsidiaries at any time;

(d) Dispositions of Equity Interests of Newmark pursuant to an initial public offering which may result in Newmark becoming less than wholly-owned Subsidiaries of the Borrower and/or the issuance of additional Equity Interests of Newmark; and

(e) Dispositions (in addition to the Dispositions permitted by clauses (a), (b), (c) and (d) above) so long as the aggregate net book value of all of the assets sold or otherwise disposed of by the Loan Parties and their Subsidiaries in all such transactions shall not exceed, (i) during the period from the Closing Date until the date the 2017 annual financial statements are delivered pursuant to Section 6.01(a), 30% of Consolidated EBITDA calculated based on the annual financial statements of the Borrower as of December 31, 2016 less any Dispositions (other than Dispositions of the type permitted by clauses (a), (b), (c) and (d) above) made from January 1, 2017 through and including the Closing Date and (ii) thereafter, during each period commencing on the day following the date of delivery of annual financial statements pursuant to Section 6.01(a) and ending on the next date of delivery of annual financial statements pursuant to Section 6.01(a) in the following year, 30% of Consolidated EBITDA calculated based on the most recent annual financial statements delivered pursuant to Section 6.01(a).

7.06 Restricted Payments .

Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that:

(a) each Subsidiary may declare and make Restricted Payments to the Borrower or otherwise in accordance with its Organizational Documents;

(b) the Borrower and each of its Subsidiaries may declare and make dividend payments or other distributions payable solely in the Equity Interests of such Person; and

(c) the Borrower and each of its Subsidiaries may declare and make Restricted Payments if, immediately before and after giving effect thereto, (i) no Event of Default shall have occurred and be continuing and (ii) the Borrower is in compliance with the financial covenants set forth in Section 7.11 on a pro forma basis after giving effect thereto.

Notwithstanding the above, as long as any amounts are owed under the Term Loan Facility, the Borrower shall not be able to make any Restricted Payments described in clauses (a)-(c) above other than (A) regular common dividends consistent with past practices, (B) share repurchases, redemptions, exchanges and other payments in connection with compensation plans or arrangements or from current or former employees and partners or their estates or from directors, consultants or charities, in each case as intended to manage share count and consistent with historic practices, (C) Restricted Payments payable solely in Equity Interests, (D) share repurchases, redemptions, exchanges and other payments in amounts and at times corresponding generally to equity issuances pursuant to the Borrower's at-the-market controlled equity offering program (at the market shelf) and (E) other Restricted Payments in the ordinary course not to exceed, in the aggregate, \$25,000,000.

7.07 Change in Nature of Business.

Engage in any business or activity that is not an Eligible Line of Business; provided that the foregoing shall not apply to Investments permitted pursuant to Section 7.02(h).

7.08 Transactions with Affiliates.

Enter into or permit to exist any transaction or series of transactions with any Affiliate of such Person, that is less favorable than could be obtained in a similar transaction with a non-affiliate, other than (1) any transaction approved by the Borrower's audit committee, (2) any transaction with an Affiliate that is consolidated with the Borrower under GAAP, (3) management fees, employee benefit arrangements or indemnification programs pertaining to limited or general partners of the Borrower or any of its Subsidiaries entered into in the ordinary course of business or approved by the Borrower's board of directors, (4) transactions existing on the Closing Date and set forth on Schedule 7.08 and (5) any transaction that does not, individually, exceed \$500,000.

7.09 Burdensome Agreements.

Enter into, or permit to exist, any Contractual Obligation that with respect to any Subsidiary, encumbers or restricts the ability of any such Person to (i) make Restricted Payments to any Loan Party, (ii) pay any Indebtedness or other obligation owed to any Loan Party, (iii) make loans or advances to any Loan Party, (iv) transfer any of its property to the any Loan Party, (v) pledge its property pursuant to the Loan Documents or any renewals, refinancings, exchanges, refundings or extension thereof or (vi) act as a Loan Party pursuant to the Loan Documents or any renewals, refinancings, exchanges, refundings or extension thereof if otherwise required to be a Loan Party hereunder, except (in respect of any of the matters referred to in clauses (i) through (v) above) for (1) this Agreement and the other Loan Documents, (2) any document or instrument governing Indebtedness incurred pursuant to Section 7.03(e), provided that any such restriction contained therein relates only to the asset or assets constructed or acquired in connection therewith, (3) any Permitted Lien or any document or instrument governing any Permitted Lien; provided that any such restriction contained therein relates only to the asset or assets subject to such Permitted Lien, (4) customary restrictions and conditions contained in any agreement relating to the sale of any property permitted under Section 7.05 pending the consummation of such sale, (5) customary provisions in joint venture agreements and other similar agreements, (6) customary provisions restricting assignment contained in leases, subleases, licenses and other agreements and (7) any agreement or other instrument of a Person acquired by a Loan Party or any Subsidiary which was in existence at the time of such Acquisition (but not created in contemplation thereof or to provide all or any portion of the funds or credit support utilized to consummate such Acquisition), 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.

7.10 Use of Proceeds.

Use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose, except, in the case of any Regulated Subsidiary, in compliance with Regulation U, T and X of the FRB.

7.11 Financial Covenants .

Permit:

(a) Consolidated Leverage Ratio . The Consolidated Leverage Ratio, (i) as of the last day of the fiscal quarter ending September 30, 2017, to be greater than 3.50:1.00, (ii) as of the last day of the fiscal quarter ending December 31, 2017, to be greater than 3.375:1.00 and (iii) as of the last day of the fiscal quarter ending March 31, 2018 and as of the last day of any fiscal quarter of the Borrower thereafter, to be greater than 3.25:1.00.

(b) Consolidated Interest Coverage Ratio . The Consolidated Interest Coverage Ratio, as of the last day of any fiscal quarter of the Borrower, to be less than 4.00:1.00.

(c) Consolidated Net Worth . Consolidated Net Worth at any time to be less than the sum of (i) \$580,000,000 plus (ii) an amount equal to (x) the Step Up Percentage multiplied by (y) the Net Cash Proceeds received by the Borrower or its Subsidiaries from the issuance and sale of Equity Interests of the Borrower or any of its Subsidiaries after the Closing Date, other than Equity Issuances pursuant to the Borrower's at-the-market controlled equity offering program (at the market shelf) intended to offset share repurchases, redemptions, exchanges and other payments in connection with compensation plans or arrangements or from current or former employees and partners or their estates or from directors, consultants or charities, in each case consistent with historic practices.. For purposes of this Section 7.11(c), the Step Up Percentage shall equal 75%, with respect to the first \$400 million in Net Cash Proceeds received, and 50% with respect to any Net Cash Proceeds received in excess of \$400 million.

(d) Net Excess Capital . Net Excess Capital with respect to all Broker-Dealer Subsidiaries at any time to be less than \$185,000,000.

7.12 Fiscal Year .

Permit the Borrower to change its fiscal year from its present ending on December 31 of each year or permit any Subsidiary to change its fiscal year except as necessary to align its fiscal year with the Borrower.

7.13 Sanctions .

Use any Credit Extension or the proceeds of any Credit Extension, or lend, contribute or otherwise make available such Credit Extension or the proceeds of any Credit Extension to any Person, to fund any activities of or business with any Person, or in any Designated Jurisdiction, that, at the time of such funding, is the subject of Sanctions, or in any other manner that will result in a violation by any Person (including any Person participating in the transaction, whether as Lender, an Arranger, Administrative Agent or otherwise) of Sanctions.

7.14 Anti-Corruption Laws .

Use the proceeds of any Credit Extension for any purpose which would breach the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 or other similar anti-corruption legislation in other jurisdictions.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

8.01 Events of Default.

Any of the following shall constitute an Event of Default:

(a) Non-Payment. Any Loan Party fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan, or (ii) within three days after the same becomes due, any interest on any Loan, or any fee due hereunder, or (iii) within five days after the same becomes due, any other amount payable hereunder or under any other Loan Document; or

(b) Specific Covenants. Any Loan Party fails to perform or observe any term, covenant or agreement contained in (i) Section 6.01 or 6.02 and such failure continues for five Business Days or (ii) any of Section 6.03(a); solely with respect to the Loan Parties, 6.05(a), 6.10 or 6.11 or Article VII; or

(c) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty days after the earlier of (i) the date on which such failure shall first become known to a Responsible Officer of the Borrower or (ii) written notice thereof is given to a Responsible Officer of the Borrower by the Administrative Agent; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of a Loan Party herein, in any other Loan Document, or in any document delivered in connection herewith or therewith shall be untrue in any material respect (other than those representations and warranties that are qualified by materiality or Material Adverse Effect, in which case in any respect) when made or deemed made; or

(e) Cross-Default. (i) Any Loan Party or any Subsidiary of a Loan Party with a net worth in excess of \$10,000,000 (A) after giving effect to any grace period applicable thereto (including any cure period, forbearance or other extension, amendment or waiver), fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness or Guarantee of such Indebtedness (other than Indebtedness hereunder and Indebtedness under Swap Contracts) having an aggregate principal amount (including drawn and outstanding amounts owing to all creditors under any combined or syndicated credit arrangement) of more than the Threshold Amount, or (B) after giving effect to any grace period applicable thereto (including any cure period, forbearance or other extension, amendment or waiver), fails to observe or perform any other agreement or condition relating to any such Indebtedness or Guarantee of such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such Guarantee (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, or such Guarantee to become payable or cash collateral in respect thereof to be demanded; (ii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which any Loan Party or any Subsidiary is the Defaulting Party (as defined in such Swap Contract) or (B) any Termination Event (as so defined) under such Swap Contract as to which any Loan Party or any Subsidiary is an Affected Party (as

so defined) and, in either event, after giving effect to any grace period applicable thereto (including any cure period, forbearance or other extension, amendment or waiver), the Swap Termination Value owed by such Loan Party or such Subsidiary as a result thereof is greater than the Threshold Amount or (iii) any Event of Default occurs and is continuing under the Term Loan Facility (as defined therein); or

(f) Insolvency Proceedings, Etc. Any Loan Party or any Subsidiary of a Loan Party with a net worth in excess of \$10,000,000 institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for sixty calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for sixty calendar days, or an order for relief is entered in any such proceeding; or

(g) Inability to Pay Debts; Attachment. (i) Any Loan Party or any Subsidiary of a Loan Party with a net worth in excess of \$10,000,000 becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Person and is not released, vacated or fully bonded within thirty days after its issue or levy; or

(h) Judgments. There is entered against any Loan Party or any Subsidiary of a Loan Party with a net worth in excess of \$10,000,000 one or more final judgments or orders for the payment of money in an aggregate amount (as to all such judgments or orders) exceeding the Threshold Amount (to the extent not covered by independent third-party insurance as to which the insurer has been notified of the claim and does not dispute coverage), and, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) there is a period of thirty (30) consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect; or

(i) ERISA. (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or would reasonably be expected to result in liability of any Loan Party or any Subsidiary under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of the Threshold Amount; provided, however, that, for purposes of determining whether withdrawal liability associated with a Multiemployer Plan is in excess of the Threshold Amount, only the maximum annual withdrawal liability payment amount pursuant to Section 4219(c) of ERISA shall be taken into account, as opposed to the total aggregate withdrawal liability assessed, or (ii) any Loan Party, any Subsidiary 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 in excess of the Threshold Amount; or

(j) Invalidity of Loan Documents. Any provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all the Obligations, ceases to be in full force and effect; or any Loan Party or any other Person contests in any manner the validity or enforceability of any provision of any Loan Document; or any Loan Party denies that it has any or further liability or obligation under any provision of any Loan Document, or purports to revoke, terminate or rescind any Loan Document.

8.02 Remedies Upon Event of Default .

If any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders, take any or all of the following actions:

- (a) declare the commitment of each Lender to make Loans to be terminated, whereupon such commitments and obligation shall be terminated;
- (b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower;
- (c) exercise on behalf of itself and the Lenders all rights and remedies available to it, the Lenders under the Loan Documents or applicable Law or at equity;

provided, however, that upon the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code of the United States, the obligation of each Lender to make Loans shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, without further act of the Administrative Agent or any Lender.

8.03 Application of Funds .

After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable as set forth in the proviso to Section 8.02), any amounts received on account of the Obligations shall, subject to the provisions of Section 2.15, be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article III) payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders (including fees, charges and disbursements of counsel to the respective Lenders and amounts payable under Article III), ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Loans, ratably among the Lenders in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans, ratably among the Lenders in proportion to the respective amounts described in this clause Fourth payable to them; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by Law.

ARTICLE IX

ADMINISTRATIVE AGENT

9.01 Appointment and Authority .

Each of the Lenders hereby irrevocably appoints Bank of America 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 Lenders, and no Loan Party shall have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term “agent” herein or in any other Loan Documents (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. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

9.02 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 as any other Lender and may exercise the same as though it were not the Administrative Agent and the term “Lender” or “Lenders” 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 any Loan Party 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 to provide notice to or consent of the Lenders with respect thereto.

9.03 Exculpatory Provisions .

The Administrative Agent 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, the Administrative Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a 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 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 applicable 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; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty or responsibility to disclose, and shall not be liable for the failure to disclose, any information relating to any Loan Party or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

Neither the Administrative Agent nor any of its Related Parties shall be liable for any action taken or not taken by the Administrative Agent under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby or thereby (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 Sections 11.01 and 8.02) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. Any such action taken or failure to act pursuant to the foregoing shall be binding on all Lenders. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given in writing to the Administrative Agent by the Borrower or a Lender.

Neither the Administrative Agent nor any of its Related Parties have any duty or obligation to any Lender or participant or any other Person to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan 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, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document and (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

9.04 Reliance by Administrative Agent.

The Administrative Agent shall be entitled to rely upon, and shall be fully protected in relying and shall not incur any liability for relying upon, any notice, request, certificate, communication, 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. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall be fully protected in relying and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender prior to the making of such Loan. The Administrative Agent may consult with legal counsel (who may be counsel for the Loan Parties), 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.

9.05 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 non appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

9.06 Resignation of Administrative Agent.

(a) The Administrative Agent may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with and (so long as there is no continuing Event of Default) with the consent of the Borrower, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders (and, if applicable, the Borrower) and shall have accepted such appointment within thirty days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the “Resignation Effective Date”), then the retiring Administrative Agent may (but shall not be obligated to) on behalf of the Lenders, appoint a successor Administrative Agent meeting the qualifications set forth above, provided that in no event shall any such successor Administrative Agent be a Defaulting Lender. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by applicable Law, by notice in writing to the Borrower and such Person remove such Person as Administrative Agent and, in consultation with the Borrower, appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty days (or such earlier day as shall be agreed by the Required Lenders) (the “Removal Effective Date”), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(c) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (i) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents and (ii) except for any indemnity payments or other amounts then owed to the retiring or removed Administrative Agent, 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 directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided for above. 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 removed) Administrative Agent (other than as provided in Section 3.01(g)) and other than any rights to indemnity payments or other amounts owed to the retiring or removed Administrative Agent as of the Resignation Effective Date or the Removal Effective Date, as applicable), and the retiring or removed 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 removed Administrative Agent's resignation or removal hereunder and under the other Loan Documents, the provisions of this Article and Section 11.04 shall continue in effect for the benefit of such retiring or removed 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 removed Administrative Agent was acting as Administrative Agent.

9.07 Non-Reliance on Administrative Agent and Other Lenders .

Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties 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 also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, 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.

9.08 No Other Duties; Etc .

Anything herein to the contrary notwithstanding, none of the bookrunners, arrangers, syndication agents, documentation agents or co-agents shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent or as a Lender hereunder.

9.09 Administrative Agent May File Proofs of Claim .

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 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, 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 and all other 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 and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Sections 2.09 and 11.04) 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 to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.09 and 11.04.

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 plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

9.10 Guaranty Matters.

Each of the Lenders irrevocably authorize the Administrative Agent to release any Guarantor from its obligations under the Guaranty if (i) the Borrower requests such release, (ii) such Guarantor is not required to Guarantee the Obligations pursuant to Section 6.12 and (iii) no Default exists or would result from such release.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release any Guarantor from its obligations under the Guaranty, pursuant to this Section 9.10.

ARTICLE X

GUARANTY

10.01 The Guaranty.

Each of the Guarantors hereby jointly and severally guarantees to each Lender and each other holder of Obligations as hereinafter provided, as primary obligor and not as surety, the prompt payment of the Obligations in full when due (whether at stated maturity, by acceleration or otherwise) strictly in accordance with the terms thereof. The Guarantors hereby further agree that if any of the Obligations are not paid in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise), the Guarantors will, jointly and severally, promptly pay the same, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Obligations, the same will be promptly paid in full when due (whether at extended maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise) in accordance with the terms of such extension or renewal.

Notwithstanding any provision to the contrary contained herein or in any other of the Loan Documents or the other documents relating to the Obligations, the obligations of each Guarantor under this Agreement and the other Loan Documents shall not exceed an aggregate amount equal to the largest amount that would not render such obligations subject to avoidance under applicable Debtor Relief Laws.

10.02 Obligations Unconditional.

The obligations of the Guarantors under Section 10.01 are joint and several, absolute and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of any of the Loan Documents or other documents relating to the Obligations, or any substitution, release, impairment or exchange of any other guarantee of or security for any of the Obligations, and, to the fullest extent permitted by applicable Law, irrespective of any other circumstance whatsoever which might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, it being the intent of this Section 10.02 that the obligations of the Guarantors hereunder shall be absolute and unconditional under any and all circumstances. Each Guarantor agrees that such Guarantor shall have no right of subrogation,

indemnity, reimbursement or contribution against the Borrower or any other Loan Party for amounts paid under this Article X until such time as the Obligations have been paid in full and the Commitments have expired or terminated. Without limiting the generality of the foregoing, it is agreed that, to the fullest extent permitted by Law, the occurrence of any one or more of the following shall not alter or impair the liability of any Guarantor hereunder, which shall remain absolute and unconditional as described above:

(a) at any time or from time to time, without notice to any Guarantor, the time for any performance of or compliance with any of the Obligations shall be extended, or such performance or compliance shall be waived;

(b) any of the acts mentioned in any of the provisions of any of the Loan Documents or other documents relating to the Obligations shall be done or omitted;

(c) the maturity of any of the Obligations shall be accelerated, or any of the Obligations shall be modified, supplemented or amended in any respect, or any right under any of the Loan Documents or other documents relating to the Obligations shall be waived or any other guarantee of any of the Obligations or any security therefor shall be released, impaired or exchanged in whole or in part or otherwise dealt with; or

(d) any of the Obligations shall be determined to be void or voidable (including for the benefit of any creditor of any Guarantor) or shall be subordinated to the claims of any Person (including any creditor of any Guarantor).

With respect to its obligations hereunder, each Guarantor hereby expressly waives diligence, presentment, demand of payment, protest and all notices whatsoever, and any requirement that the Administrative Agent or any other holder of the Obligations exhaust any right, power or remedy or proceed against any Person under any of the Loan Documents or any other document relating to the Obligations, or against any other Person under any other guarantee of, or security for, any of the Obligations.

10.03 Reinstatement .

The obligations of each Guarantor under this Article X shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of any Person in respect of the Obligations is rescinded or must be otherwise restored by any holder of any of the Obligations, whether as a result of any Debtor Relief Law or otherwise, and each Guarantor agrees that it will indemnify the Administrative Agent and each other holder of the Obligations on demand for all reasonable costs and expenses (including the fees, charges and disbursements of counsel) incurred by the Administrative Agent or such holder of the Obligations in connection with such rescission or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any Debtor Relief Law.

10.04 Certain Additional Waivers .

Each Guarantor agrees that such Guarantor shall have no right of recourse to security for the Obligations, except through the exercise of rights of subrogation pursuant to Section 10.02 and through the exercise of rights of contribution pursuant to Section 10.06.

10.05 Remedies .

The Guarantors agree that, to the fullest extent permitted by Law, as between the Guarantors, on the one hand, and the Administrative Agent and the other holders of the Obligations, on the other hand, the Obligations may be declared to be forthwith due and payable as specified in Section 10.02 (and shall be deemed to have become automatically due and payable in the circumstances specified in Section 10.02) for purposes of Section 10.01 notwithstanding any stay, injunction or other prohibition preventing such declaration (or preventing the Obligations from becoming automatically due and payable) as against any other Person and that, in the event of such declaration (or the Obligations being deemed to have become automatically due and payable), the Obligations (whether or not due and payable by any other Person) shall forthwith become due and payable by the Guarantors for purposes of Section 10.01.

10.06 Rights of Contribution .

The Guarantors hereby agree as among themselves that, if any Guarantor shall make an Excess Payment (as defined below), such Guarantor shall have a right of contribution from each other Guarantor in an amount equal to such other Guarantor's Contribution Share (as defined below) of such Excess Payment. The payment obligations of any Guarantor under this Section 10.06 shall be subordinate and subject in right of payment to the Obligations until such time as the Obligations have been paid-in-full and the Commitments have terminated, and none of the Guarantors shall exercise any right or remedy under this Section 10.06 against any other Guarantor until such Obligations have been paid-in-full and the Commitments have terminated. For purposes of this Section 10.06, (a) "Excess Payment" shall mean the amount paid by any Guarantor in excess of its Ratable Share of any Obligations; (b) "Ratable Share" shall mean, for any Guarantor in respect of any payment of Obligations, the ratio (expressed as a percentage) as of the date of such payment of Obligations of (i) the amount by which the aggregate present fair salable value of all of its assets and properties exceeds the amount of all debts and liabilities of such Guarantor (including contingent, subordinated, unmatured, and unliquidated liabilities, but excluding the obligations of such Guarantor hereunder) to (ii) the amount by which the aggregate present fair salable value of all assets and other properties of all of the Loan Parties exceeds the amount of all of the debts and liabilities (including contingent, subordinated, unmatured, and unliquidated liabilities, but excluding the obligations of the Loan Parties hereunder) of the Loan Parties; provided, however, that, for purposes of calculating the Ratable Shares of the Guarantors in respect of any payment of Obligations, any Guarantor that became a Guarantor subsequent to the date of any such payment shall be deemed to have been a Guarantor on the date of such payment and the financial information for such Guarantor as of the date such Guarantor became a Guarantor shall be utilized for such Guarantor in connection with such payment; and (c) "Contribution Share" shall mean, for any Guarantor in respect of any Excess Payment made by any other Guarantor, the ratio (expressed as a percentage) as of the date of such Excess Payment of (i) the amount by which the aggregate present fair salable value of all of its assets and properties exceeds the amount of all debts and liabilities of such Guarantor (including contingent, subordinated, unmatured, and unliquidated liabilities, but excluding the obligations of such Guarantor hereunder) to (ii) the amount by which the aggregate present fair salable value of all assets and other properties of the Loan Parties other than the maker of such Excess Payment exceeds the amount of all of the debts and liabilities (including contingent, subordinated, unmatured, and unliquidated liabilities, but excluding the obligations of the Loan Parties) of the Loan Parties other than the maker of such Excess Payment; provided, however, that, for purposes of calculating the Contribution Shares of the Guarantors in respect of any Excess Payment, any Guarantor that became a Guarantor subsequent to the date of any such Excess Payment shall be deemed to have been a Guarantor on the date of such Excess Payment and the financial information for such Guarantor as of the date such Guarantor became a Guarantor shall be utilized for such Guarantor in connection with such Excess Payment. This Section 10.06 shall not be deemed to affect any right of subrogation, indemnity, reimbursement or contribution that any Guarantor may have under Law against the Borrower in respect of any payment of Obligations.

10.07 Guarantee of Payment; Continuing Guarantee.

The guarantee in this Article X is a guaranty of payment and not of collection, is a continuing guarantee, and shall apply to the Obligations whenever arising.

10.08 Appointment of Borrower.

Each of the Guarantors 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 Guarantor as the Borrower deems appropriate in its sole discretion and each Guarantor 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 or a Lender to the Borrower shall be deemed delivered to each Guarantor and (c) the Administrative Agent or 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 Guarantors.

ARTICLE XI

MISCELLANEOUS

11.01 Amendments, Etc.

No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by any Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and the Borrower or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that

(a) no such amendment, waiver or consent shall:

(i) extend or increase the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.02.) without the written consent of such Lender (it being understood and agreed that a waiver of any condition precedent set forth in Section 4.02 or of any Default or a mandatory reduction in Commitments is not considered an extension or increase in Commitments of any Lender);

(ii) postpone any date fixed by this Agreement or any other Loan Document for any payment of principal, interest, fees or other amounts due to the Lenders (or any of them) or any scheduled reduction of the Commitments hereunder or under any other Loan Document without the written consent of each Lender entitled to receive such payment or whose Commitments are to be reduced;

(iii) reduce the principal of, or the rate of interest specified herein on, any Loan, or any fees (other than pursuant to a fee letter separate from this Agreement in which all the Lenders are not a party thereto) or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender entitled to receive such amount; provided, however, that only the consent of the Required Lenders shall be necessary (A) to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest at the Default Rate or (B) to amend any financial covenant hereunder (or any defined term used therein) even if the effect of such amendment would be to reduce the rate of interest on any Loan or to reduce any fee payable hereunder;

(iv) change Section 8.03 or Section 2.13 in a manner that would alter the pro rata sharing of payments required thereby without the written consent of each Lender directly affected thereby;

(v) change any provision of this Section 11.01(a) or the definition of "Required Lenders" without the written consent of each Lender directly affected thereby;

(vi) release the Borrower without the consent of each Lender, or, except in connection with a transaction permitted under Section 7.04 or Section 7.05, all or substantially all of the value of the Guaranty without the written consent of each Lender whose Obligations are guaranteed thereby, except to the extent such release is permitted pursuant to Section 9.10 (in which case such release may be made by the Administrative Agent acting alone); or

(b) unless also signed by the Administrative Agent, no amendment, waiver or consent shall affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document;

provided, further, that notwithstanding anything to the contrary herein, (i) each Lender is entitled to vote as such Lender sees fit on any bankruptcy reorganization plan that affects the Loans, and each Lender acknowledges that the provisions of Section 1126(c) of the Bankruptcy Code of the United States supersedes the unanimous consent provisions set forth herein and (ii) the Required Lenders shall determine whether or not to allow a Loan Party to use cash collateral in the context of a bankruptcy or insolvency proceeding and such determination shall be binding on all of the Lenders.

No Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of such 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 by its terms affects such Defaulting Lender disproportionately adversely relative to other affected Lenders shall require the consent of such Defaulting Lender.

Any amendment entered into in order to effectuate an increase in the Aggregate Revolving Commitments, in accordance with Section 2.01(b), shall only require the consent of the Lenders providing such increase as long as the purpose of such amendment is solely to incorporate the appropriate provisions for such increase.

Notwithstanding any provision herein to the contrary the Administrative Agent and the Borrower may amend, modify or supplement this Agreement or any other Loan Document to cure or correct administrative errors or omissions, any ambiguity, omission, defect or inconsistency or to effect administrative changes, and such amendment shall become effective without any further consent of any other party to such Loan Document so long as (i) such amendment, modification or supplement does not adversely affect the rights of any Lender or other holder of Obligations in any material respect and (ii) 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.

11.02 Notices; Effectiveness; Electronic Communications .

(a) Notices Generally . Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), 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 facsimile as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to any Loan Party or the Administrative Agent, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 11.02; and

(ii) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified 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 material non-public information relating to the Borrower).

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 hereunder may be delivered or furnished by electronic communication (including e mail, FpML messaging, and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender pursuant to Article II if such Lender has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may each, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

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) 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; provided that, for both clauses (i) and (ii), if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(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 or any of its Related Parties (collectively, the "Agent Parties") have any liability to the Borrower, any Lender or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of any Loan Party's or the Administrative Agent's transmission of Borrower Materials or notices through the Platform, any other electronic platform or electronic messaging service, or through the Internet.

(d) Change of Address, Etc. Each of the Borrower and the Administrative Agent may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the Borrower and the Administrative Agent. 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, facsimile number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable Law, including United States Federal and state securities Laws, to make reference to Borrower Materials that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to the Borrower or its securities for purposes of United States Federal or state securities Laws.

(e) Reliance by Administrative Agent and Lenders. The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic Loan Notices) purportedly given by or on behalf of any Loan Party 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. The Loan Parties shall indemnify the Administrative Agent, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of a Loan Party. 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.

11.03 No Waiver; Cumulative Remedies; Enforcement .

No failure by any Lender 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 or under any other Loan Document (including the imposition of the Default Rate) 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 Section 8.02 for the benefit of all the Lenders; 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) any Lender from exercising setoff rights in accordance with Section 11.08 (subject to the terms of Section 2.13), or (c) 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 Section 8.02 and (ii) in addition to the matters set forth in clauses (b) and (c) of the preceding proviso and subject to Section 2.13, 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.

11.04 Expenses; Indemnity; Damage Waiver .

(a) Costs and Expenses . The Loan Parties shall pay (i) all reasonable and documented out of pocket expenses incurred by the Administrative Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for the Administrative Agent) in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated) and (ii) all out of pocket expenses incurred by the Administrative Agent or any Lender (including the fees, charges and disbursements of any counsel for the Administrative Agent or any Lender), in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with the Loans made hereunder, including all such out of pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans.

(b) Indemnification by the Loan Parties . The Loan Parties shall indemnify the Administrative Agent (and any sub-agent thereof) and each Lender, 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 related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless each Indemnitee from all fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any Person (including any Loan Party) arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder, the consummation of the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents (including in respect of any matters addressed in Section 3.01), (ii) any Loan or the use or proposed use of the proceeds therefrom, (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by a Loan Party or any of its Subsidiaries, or any Environmental Liability related in any way to a Loan Party or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation,

investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by any Loan Party, 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 or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee, (y) result from a claim brought by any Loan Party against an Indemnitee for breach of such Indemnitee's obligations hereunder or under any other Loan Document, if such Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction or (z) arise from a dispute solely among Indemnitees (other than the Administrative Agent or any Arranger acting in its capacity as such) at a time when the Loan Parties have not breached its obligations hereunder in any material respect and does not arise out of an act or omission by any Loan Party. Without limiting the provisions of Section 3.01(c), this Section 11.04(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) Reimbursement by Lenders. To the extent that the Loan Parties for any reason fail to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by them to the Administrative Agent (or any sub-agent thereof) or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent) 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 based on each Lender's share of the Total Credit Exposures of all Lenders at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender), such payment to be made severally among them based on such Lenders' Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), provided, further 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 such sub-agent) in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.12(d).

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable Law, no party hereto shall assert, and each such party hereby waives, and acknowledges that no other Person shall have, any claim on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof; provided that nothing contained in this clause (d) shall relieve the Loan Parties of any obligation it may have to indemnify an Indemnitee to against special, indirect, consequential or punitive damages asserted against such Indemnitee by a third party claim. 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 in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(e) Payments. All amounts due under this Section shall be payable not later than ten Business Days after demand therefor.

(f) Survival. The agreements in this Section and the indemnity provisions of Section 11.02(e) shall survive the resignation of the Administrative Agent, the replacement of any Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all the other Obligations.

11.05 Payments Set Aside.

To the extent that any payment by or on behalf of any Loan Party is made to the Administrative Agent or any Lender, or the Administrative Agent or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

11.06 Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement and the other Loan Documents shall be binding upon and inure to the benefit of the parties hereto and thereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder or thereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (e) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). 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, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement and the other Loan Documents (including all or a portion of its Commitment and the Loans at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and the related Loans at the time owing to it or contemporaneous assignments to related Approved Funds (determined after giving effect to such Assignments) that equal at least the amount specified in subsection (b)(i)(B) of this Section in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if “Trade Date” is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than \$5,000,000 unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender’s Loans and Commitments, and rights and obligations with respect thereto, assigned;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within ten (10) Business Days after having received notice thereof;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of any unfunded Revolving Commitment if such assignment is to a Person that is not a Lender with a Commitment subject to such assignment, an Affiliate of such Lender or an Approved Fund with respect to such Lender; and

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of \$3,500; provided, however, that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons. No such assignment shall be made to (A) the Borrower or any of the Borrower’s Affiliates or Subsidiaries, (B) any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B), (C) a natural Person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural Person) or (D) any Disqualified Institution.

(vi) Certain Additional Payments. 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 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 applicable 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.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement 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 Sections 3.01, 3.04, 3.05 and 11.04 with respect to facts and circumstances occurring prior to the effective date of such assignment); provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a 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. Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection 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 subsection (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as an agent of the Borrower (and such agency being solely for tax purposes), shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it (or the equivalent thereof in electronic form) and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans 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 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. The Register shall be available for inspection by the Borrower and any Lender at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural Person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural Person), a Disqualified Institution, a Defaulting Lender or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 11.04(c) without regard to the existence of any participation.

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 to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in Section 11.01(a) that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section (it being understood that the documentation required under Section 3.01(e) shall be delivered to the Lender who sells the participation) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (A) agrees to be subject to the provisions of Sections 3.06 and 11.13 as if it were an assignee under paragraph (b) of this Section and (B) shall not be entitled to receive any greater payment under Sections 3.01 or 3.04, with respect to any participation, than the Lender from whom it acquired the applicable participation would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 3.06 with respect to any Participant. To the extent permitted by Law, each Participant also shall be entitled to the benefits of Section 11.08 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.13 as though it were a Lender. 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 stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

11.07 Treatment of Certain Information: Confidentiality.

Each of the Administrative Agent and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable Laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payments hereunder, (g) on a confidential basis to (i) any rating agency in connection with rating any Loan Party or its Subsidiaries or the credit facilities provided hereunder or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers or other market identifiers with respect to the credit facilities provided hereunder, (h) with the consent of the Borrower or (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower. In addition, the Administrative Agent and the Lenders may disclose the existence of this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Agents and the Lenders in connection with the administration of this Agreement (including information about this Agreement that is customarily provided to such parties), the other Loan Documents, and the Commitments.

For purposes of this Section, “Information” means all information received from a Loan Party or any Subsidiary relating to the Loan Parties or any Subsidiary or any of their respective businesses, other than any such information that is available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by such Loan Party or any Subsidiary, provided that, in the case of information received from a Loan Party or any Subsidiary after the Closing Date, such information is clearly identified at the time of delivery as confidential. 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.

Each of the Administrative Agent and the Lenders acknowledges that (a) the Information may include material non-public information concerning a Loan Party or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Law, including United States Federal and state securities Laws.

11.08 Rights of Setoff.

If an Event of Default shall have occurred and be continuing, each Lender and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency)

at any time owing by such Lender or any such Affiliate to or for the credit or the account of any Loan Party against any and all of the obligations of such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender or their respective Affiliates, irrespective of whether or not such Lender or such Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of such Loan Party may be contingent or unmatured or are owed to a branch or office or Affiliate of such Lender 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 2.15 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 Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender or their respective Affiliates may have. Each Lender agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

11.09 Interest Rate Limitation .

Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the “Maximum Rate”). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

11.10 Counterparts; Integration; Effectiveness .

This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents and any separate letter agreements with respect to fees payable to the Administrative Agent 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. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic imaging means (e.g., “pdf” or “tif”) shall be effective as delivery of a manually executed counterpart of this Agreement.

11.11 Survival of Representations and Warranties .

All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be

relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied.

11.12 Severability.

If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 11.12, 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, then such provisions shall be deemed to be in effect only to the extent not so limited.

11.13 Replacement of Lenders.

If the Borrower is entitled to replace a Lender pursuant to the provisions of Section 3.06, or if any Lender is a Defaulting Lender or a Non-Consenting 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, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 11.06), all of its interests, rights (other than its existing rights to payments pursuant to Sections 3.01 and 3.04) and obligations under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

- (a) the Borrower shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 11.06(b);
- (b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) 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);
- (c) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter;
- (d) such assignment does not conflict with applicable Laws; and
- (e) in the case of an assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

11.14 Governing Law; Jurisdiction; Etc.

(a) GOVERNING LAW. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) SUBMISSION TO JURISDICTION. EACH LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT IT WILL NOT COMMENCE ANY ACTION, LITIGATION OR PROCEEDING OF ANY KIND OR DESCRIPTION, WHETHER IN LAW OR EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, AGAINST THE ADMINISTRATIVE AGENT, ANY LENDER OR ANY RELATED PARTY OF THE FOREGOING IN ANY WAY RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS RELATING HERETO OR THERETO, IN ANY FORUM OTHER THAN THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION, LITIGATION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION, LITIGATION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT OR ANY LENDER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST ANY LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) WAIVER OF VENUE. EACH LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 11.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

11.15 Waiver of Jury Trial.

EACH PARTY HERETO HEREBY IRREVOCABLY 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 THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON 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 AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

11.16 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), each of the Loan Parties acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent, the Arrangers and the Lenders are arm's-length commercial transactions between the Loan Parties and their Affiliates, on the one hand, and the Administrative Agent, the Arrangers and the Lenders, on the other hand, (B) each of the Loan Parties has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) each of the Loan Parties 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) the Administrative Agent, the Arrangers and the Lenders each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Loan Parties or any of their respective Affiliates, or any other Person and (B) neither the Administrative Agent, any Arranger nor any Lender has any obligation to the Loan Parties or any of their respective 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 Arrangers, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Loan Parties and their respective Affiliates, and neither the Administrative Agent, any Arranger nor any Lender has any obligation to disclose any of such interests to the Loan Parties and their respective Affiliates. To the fullest extent permitted by Law, each of the Loan Parties hereby waives and releases any claims that it may have against the Administrative Agent, any Arranger or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

11.17 Electronic Execution of Assignments and Certain Other Documents.

The words “delivery,” “execute,” “execution,” “signed,” “signature,” and words of like import in any Loan Document or any other document executed in connection herewith 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, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable 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; provided that notwithstanding anything contained herein to the contrary neither the Administrative Agent nor any Lender is under any obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by the Administrative Agent or such Lender pursuant to procedures approved by it and provided further without limiting the foregoing, upon the request of any party, any electronic signature shall be promptly followed by such manually executed counterpart.

11.18 USA PATRIOT Act Notice.

Each Lender that is subject to the Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Loan Parties that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “Act”), it is required to obtain, verify and record information that identifies the Loan Parties, which information includes the name and address of the Loan Parties and other information that will allow such Lender or the Administrative Agent, as applicable, to identify the Loan Parties in accordance with the Act. The Loan Parties shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable “know your customer” and anti-money laundering rules and regulations, including the Act.

11.19 Acknowledgment and Consent to Bail-In of EEA Financial Institutions.

Notwithstanding anything to the contrary in any Credit Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an EEA Financial Institution arising under any Credit Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender that is an EEA Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Credit Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

BORROWER:

BGC PARTNERS, INC.,
a Delaware corporation

By: /s/ Steven R. McMurray
Name: Steven R. McMurray
Title: Chief Financial Officer

BGC PARTNERS, INC.
REVOLVING CREDIT AGREEMENT

ADMINISTRATIVE AGENT:

BANK OF AMERICA, N.A.,
as Administrative Agent

By: /s/ Paley Chen

Name: Paley Chen

Title: Vice President

BGC PARTNERS, INC.
REVOLVING CREDIT AGREEMENT

LENDERS:

BANK OF AMERICA, N.A.,

By: /s/ Sherman Wong

Name: Sherman Wong

Title: Director

BGC PARTNERS, INC.
REVOLVING CREDIT AGREEMENT

CAPITAL ONE, NATIONAL ASSOCIATION,

By: /s/ Sean C. Horridge

Name: Sean C. Horridge

Title: Vice President

BGC PARTNERS, INC.
REVOLVING CREDIT AGREEMENT

PNC BANK, NATIONAL ASSOCIATION,

By: /s/ Alaa Shraim

Name: Alaa Shraim

Title: Vice President

BGC PARTNERS, INC.
REVOLVING CREDIT AGREEMENT

CITIBANK, N.A.,

By: /s/ Ciraran Small

Name: Ciraran Small

Title: Vice President

BGC PARTNERS, INC.
REVOLVING CREDIT AGREEMENT

GOLDMAN SACHS BANK USA,

By: /s/ Ryan Durkin

Name: Ryan Durkin

Title: Authorized Signatory

BGC PARTNERS, INC.
REVOLVING CREDIT AGREEMENT

MIZUHO BANK, LTD.,

By: /s/ David Lim

Name: David Lim

Title: Authorized Signatory

BGC PARTNERS, INC.
REVOLVING CREDIT AGREEMENT

INDUSTRIAL AND COMMERCIAL BANK OF CHINA LTD.,
NEW YORK BRANCH,

By: /s/ Guoshen Sun
Name: Guoshen Sun
Title: Deputy General Manager

BGC PARTNERS, INC.
REVOLVING CREDIT AGREEMENT

STIFEL BANK & TRUST,

By: /s/ Jeffrey Rombach

Name: Jeffrey Rombach

Title: Senior Vice President

BGC PARTNERS, INC.
REVOLVING CREDIT AGREEMENT

ASSOCIATED BANK, NATIONAL ASSOCIATION,

By: /s/ Liliana Huerta Correa

Name: Liliana Huerta Correa

Title: Vice President

BGC PARTNERS, INC.
REVOLVING CREDIT AGREEMENT

BANKUNITED, N.A.,

By: /s/ Paul Ferrara

Name: Paul Ferrara

Title: Vice President

BGC PARTNERS, INC.
REVOLVING CREDIT AGREEMENT

REGIONS BANK,

By: /s/ Peter Wesemeier

Name: Peter Wesemeier

Title: Managing Director

BGC PARTNERS, INC.
REVOLVING CREDIT AGREEMENT

Exhibit 2.02

FORM OF LOAN NOTICE

Date: _____, _____

To: Bank of America, N.A., as Administrative Agent

Ladies and Gentlemen:

Reference is made to that certain Revolving Credit Agreement, dated as of September 8, 2017 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Credit Agreement," the terms defined therein being used herein as therein defined), among BGC Partners, Inc., a Delaware corporation (the "Borrower"), the Guarantors from time to time party thereto, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent.

The undersigned hereby requests (select one):

A Borrowing of Revolving Loans

A conversion or continuation of Revolving Loans

1. **ON _____ (A BUSINESS DAY).**
2. **IN THE AMOUNT OF \$ _____.**
3. **COMPRISED OF _____.**

[TYPE OF LOAN REQUESTED]

4. **FOR EURODOLLAR RATE LOANS: WITH AN INTEREST PERIOD OF ___ MONTHS.**

[With respect to such Borrowing, the Borrower hereby represents and warrants that (i) such request complies with the requirements of Section 2.01 of the Credit Agreement and (ii) each of the conditions set forth in Section 4.02 of the Credit Agreement has been satisfied on and as of the date of such Borrowing.]

BGC PARTNERS, INC.

By: _____
Name: _____
Title: _____

Exhibit 2.05

FORM OF NOTICE OF LOAN PREPAYMENT

TO: Bank of America, N.A., as Administrative Agent

RE: Revolving Credit Agreement dated as of September 8, 2017 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Credit Agreement," the terms defined therein being used herein as therein defined), among BGC Partners, Inc., a Delaware corporation (the "Borrower"), the Guarantors from time to time party thereto, the Lenders party thereto and Bank of America, N.A., in its capacity as administrative agent (in such capacity, the "Administrative Agent") for the lenders from time to time party to the Credit Agreement.

DATE: [Date]

The Borrower hereby notifies the Administrative Agent that on _____¹ pursuant to the terms of Section 2.05 of the Credit Agreement, the Borrower intends to prepay the following Loans as more specifically set forth below:

Voluntary prepayment in the following amount(s):

- Eurodollar Rate Loans: \$ _____²
Applicable Interest Period: _____
- Base Rate Loans: \$ _____³

Delivery of an executed counterpart of a signature page of this notice by fax transmission or other electronic mail transmission (e.g. "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this notice.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

¹ Specify date of such prepayment.

² Any prepayment of Eurodollar Rate Loans shall be in a principal amount of \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof (or if less, the entire principal amount thereof outstanding).

³ Any prepayment of Base Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof (or if less, the entire principal amount thereof outstanding).

BGC PARTNERS, INC.,
a Delaware corporation

By: _____

Name: _____

Title: _____

Exhibit 2.11

FORM OF NOTE

_____, 20 ____

FOR VALUE RECEIVED, the undersigned (the “Borrower”), hereby promises to pay to _____ or registered assigns (the “Lender”), in accordance with the provisions of the Agreement (as hereinafter defined), the principal amount of each Loan from time to time made by the Lender to the Borrower under that certain Revolving Credit Agreement, dated as of September 8, 2017 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the “Agreement,” the terms defined therein being used herein as therein defined), among the Borrower, the Guarantors from time to time party thereto, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent.

The Borrower promises to pay interest on the unpaid principal amount of each Loan from the date of such Loan until such principal amount is paid in full, at such interest rates and at such times as provided in the Agreement. All payments of principal and interest shall be made to the Administrative Agent for the account of the Lender in Dollars in immediately available funds at the Administrative Agent’s Office. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Agreement.

This Note is one of the Notes referred to in the Agreement, is entitled to the benefits thereof and may be prepaid in whole or in part subject to the terms and conditions provided therein. Upon the occurrence and continuation of one or more of the Events of Default specified in the Agreement, all amounts then remaining unpaid on this Note shall become, or may be declared to be, immediately due and payable all as provided in the Agreement. Loans made by the Lender shall be evidenced by one or more loan accounts or records maintained by the Lender in the ordinary course of business. The Lender may also attach schedules to this Note and endorse thereon the date, amount and maturity of its Loans and payments with respect thereto.

The Borrower, for itself, its successors and assigns, hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Note.

THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

BGC PARTNERS, INC.

By: _____
Name:
Title:

EXHIBIT 3.01-A

FORM OF

U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Revolving Credit Agreement dated as of September 8, 2017 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among BGC Partners, Inc., a Delaware corporation (the "Borrower"), the Guarantors identified therein, the Lenders identified therein, and Bank of America, N.A., as Administrative Agent.

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Internal Revenue Code and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Internal Revenue Code.

The undersigned has furnished the Administrative Agent and the Borrower with a certificate of its non-U.S. Person status on IRS Form W-8BENE (or W-8BEN, as applicable). By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: _____

Name: _____

Title: _____

Date: _____, 20 __

EXHIBIT 3.01-B

**FORM OF
U.S. TAX COMPLIANCE CERTIFICATE**

(For Foreign Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Revolving Credit Agreement dated as of September 8, 2017 (as amended, supplemented or otherwise modified from time to time, the “Credit Agreement”), among BGC Partners, Inc., a Delaware corporation (the “Borrower”), the Guarantors identified therein, the Lenders identified therein, and Bank of America, N.A., as Administrative Agent.

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Internal Revenue Code, and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Internal Revenue Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. Person status on IRS Form W-8BENE (or W-8BEN, as applicable). By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____

Name: _____

Title: _____

Date: _____, 20 ____

EXHIBIT 3.01-C

FORM OF

U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Revolving Credit Agreement dated as of September 8, 2017 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among BGC Partners, Inc., a Delaware corporation (the "Borrower"), the Guarantors identified therein, the Lenders identified therein, and Bank of America, N.A., as Administrative Agent.

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such participation, (iii) with respect such participation, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Internal Revenue Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Internal Revenue Code.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BENE (or W-8BEN, as applicable) or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BENE (or W-8BEN, as applicable) from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____

Name: _____

Title: _____

Date: _____, 20 ____

EXHIBIT 3.01-D

FORM OF

U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Revolving Credit Agreement dated as of September 8, 2017 (as amended, supplemented or otherwise modified from time to time, the “Credit Agreement”), among BGC Partners, Inc., a Delaware corporation (the “Borrower”), the Guarantors identified therein, the Lenders identified therein, and Bank of America, N.A., as Administrative Agent.

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Loan(s) (as well as any Note(s) evidencing such Loan(s)), (iii) with respect to the extension of credit pursuant to this Credit Agreement or any other Loan Document, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Internal Revenue Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Internal Revenue Code.

The undersigned has furnished the Administrative Agent and the Borrower with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BENE (or W-8BEN, as applicable) or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BENE (or W-8BEN, as applicable) from each of such partner’s/member’s beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: _____

Name: _____

Title: _____

Date: _____, 20 ____

Exhibit 6.02

FORM OF COMPLIANCE CERTIFICATE

For the fiscal period ended _____, 20 ____.

I, _____, [Title] of BGC PARTNERS, INC. (the “Borrower”) hereby certify that, to the best of my knowledge and belief, with respect to that certain Revolving Credit Agreement dated as of September 8, 2017 (as amended, modified, restated or supplemented from time to time, the “Credit Agreement”; all of the defined terms in the Credit Agreement are incorporated herein by reference) among the Borrower, the Guarantors, the Lenders and Bank of America, N.A., as Administrative Agent:

(a) **The company-prepared financial statements which accompany this certificate are true and correct in all material respects and have been prepared in accordance with GAAP applied on a consistent basis, subject to changes resulting from normal year-end audit adjustments.**

(b) **Since _____ (the date of the last similar certification, or, if none, the Closing Date) no Default or Event of Default has occurred under the Credit Agreement;**

(c) **(select one):**

Attached hereto is a supplement to Schedule 5.11 (Loan Parties and Subsidiaries) of the Credit Agreement, such that, as supplemented, such Schedule is accurate and complete as of the date hereof.

No such supplement is required at this time.

Delivered herewith are detailed calculations demonstrating compliance by the Loan Parties with the financial covenants contained in Section 7.11 of the Credit Agreement as of the end of the fiscal period referred to above.

This _____ day of _____, 20 ____.

BGC PARTNERS, INC.

By: _____

Name:

Title:

Computation of Financial Covenants

Exhibit 6.12

FORM OF JOINDER AGREEMENT

THIS JOINDER AGREEMENT (the “Agreement”), dated as of _____, 20____, is by and between _____, a _____ (the “Subsidiary”), and BANK OF AMERICA, N.A., in its capacity as Administrative Agent under that certain Revolving Credit Agreement (as it may be amended, modified, restated or supplemented from time to time, the “Credit Agreement”), dated as of September 8, 2017, by and among BGC PARTNERS, INC., a Delaware corporation (the “Borrower”), the Guarantors, the Lenders and Bank of America, N.A., as Administrative Agent. All of the defined terms in the Credit Agreement are incorporated herein by reference.

The Loan Parties are required by Section 6.12 of the Credit Agreement to cause the Subsidiary to become a “Guarantor”.

Accordingly, the Subsidiary hereby agrees as follows with the Administrative Agent, for the benefit of the Lenders:

1. The Subsidiary hereby acknowledges, agrees and confirms that, by its execution of this Agreement, the Subsidiary will be deemed to be a party to the Credit Agreement and a “Guarantor” for all purposes of the Credit Agreement, and shall have all of the obligations of a Guarantor thereunder as if it had executed the Credit Agreement. The Subsidiary hereby ratifies, as of the date hereof, and agrees to be bound by, all of the terms, provisions and conditions applicable to the Guarantors contained in the Credit Agreement. Without limiting the generality of the foregoing terms of this paragraph 1, the Subsidiary hereby jointly and severally together with the other Guarantors, guarantees to each Lender and the Administrative Agent, as provided in Article X of the Credit Agreement, the prompt payment of the Obligations in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration, a mandatory cash collateralization or otherwise) strictly in accordance with the terms thereof.

2. The address of the Subsidiary for purposes of all notices and other communications is _____, _____, Attention of _____ (Facsimile No. _____).

3. The Subsidiary hereby waives acceptance by the Administrative Agent and the Lenders of the guaranty by the Subsidiary under Article X of the Credit Agreement upon the execution of this Agreement by the Subsidiary.

4. This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which when taken together shall constitute one contract.

5. This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, the Subsidiary has caused this Joinder Agreement to be duly executed by its authorized officers, and the Administrative Agent, for the benefit of the Lenders, has caused the same to be accepted by its authorized officer, as of the day and year first above written.

[SUBSIDIARY]

By: _____
Name:
Title:

Acknowledged and accepted:

BANK OF AMERICA, N.A.,

as Administrative Agent

By: _____
Name:
Title:

Exhibit 11.06(b)

FORM OF ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (this “ Assignment and Assumption ”) is dated as of the Effective Date set forth below and is entered into by and between [*Insert name of Assignor*] (the “ Assignor ”) and [*Insert name of Assignee*] (the “ Assignee ”). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, the “ Credit Agreement ”), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of the Assignor’s rights and obligations as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto in the amount[s] and equal to the percentage interest[s] identified below of all the outstanding rights and obligations under the respective facilities identified below (including, without limitation, Guarantees included in such facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including, but not limited to, contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as, the “ Assigned Interest ”). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. Assignor: _____
[Assignor [is][is not] a Defaulting Lender.]
2. Assignee: _____
[and is an Affiliate/Approved Fund of [*identify Lender*] ⁴]
3. Borrower: BGC Partners, Inc., a Delaware corporation
4. Agent: Bank of America, N.A., as the administrative agent under the Credit Agreement
5. Credit Agreement: Revolving Credit Agreement dated as of September 8, 2017 among the Borrower, the Guarantors party thereto, the Lenders party thereto and Bank of America, N.A., as Administrative Agent

⁴ Select as applicable.

6. Assigned Interest:

<u>Facility Assigned</u> ⁵	<u>Aggregate Amount of Commitment/Loans for all Lenders</u>	<u>Amount of Commitment/Loans Assigned *</u>	<u>Percentage Assigned of Commitment/Loans</u> 6
	\$	\$	%
	\$	\$	%
	\$	\$	%

[7. Trade Date: _____] ⁷

Effective Date: _____, 20____ [TO BE INSERTED BY AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR

[NAME OF ASSIGNOR]

By: _____

Title:

ASSIGNEE

[NAME OF ASSIGNEE]

By: _____

Title:

[Consented to and] ⁸ Accepted:

BANK OF AMERICA, N.A. as

Agent

By _____

⁵ Fill in the appropriate terminology for the types of facilities under the Credit Agreement that are being assigned under this Assignment (e.g. "Revolving Commitment")

* Amount to be adjusted by the counterparties to take into account any payments or prepayments made between the Trade Date and the Effective Date.

⁶ Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.

⁷ To be completed if the Assignor and the Assignee intend that the minimum assignment amount is to be determined as of the Trade Date.

⁸ To be added only if the consent of the Administrative Agent is required by the terms of the Credit Agreement.

Title:

BGC PARTNERS, INC.

By _____

Title:

STANDARD TERMS AND CONDITIONS FOR
ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim, (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and (iv) it is [not] a Defaulting Lender; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2 Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets the requirements to be an assignee under Section 11.06(b)(iii) and (v) of the Credit Agreement (subject to such consents, if any, as may be required under Section 11.06(b)(iii) of the Credit Agreement), (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it is sophisticated with respect to decisions to acquire assets of the type represented by the Assigned Interest and either it, or the Person exercising discretion in making its decision to acquire the Assigned Interest, is experienced in acquiring assets of such type, (v) it has received a copy of the Credit Agreement, and has received or has been accorded the opportunity to receive copies of the most recent financial statements delivered pursuant to Section 6.01 thereof, as applicable, and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest, (vi) it has, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest, and (vii) if it is a Foreign Lender, attached hereto is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

The Assignee represents and warrants as of the Effective Date to the Administrative Agent, the Assignor and the respective Affiliates of each, and not, for the avoidance of doubt, for the benefit of the Borrowers or any other Loan Party, that (i) the Assignee is not and will not be (A) an employee benefit plan subject to Title I of ERISA; (B) a plan or account subject to Section 4975 of the Code; or (C) a “governmental plan” within the meaning of ERISA; and (ii) the assets used by such Lender’s Commitment do not include “plan assets” of any such plans or accounts for purposes of ERISA or the Code.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date. Notwithstanding the foregoing, the Administrative Agent shall make all payments of interest, fees or other amounts paid or payable in kind from and after the Effective Date to the Assignee.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of New York.

Exhibit 11.06(b)(iv)

FORM OF ADMINISTRATIVE QUESTIONNAIRE

[Request appropriate Form from Administrative Agent]

TERM LOAN CREDIT AGREEMENT

Dated as of September 8, 2017

among

BGC PARTNERS, INC.

as the Borrower,

CERTAIN SUBSIDIARIES OF THE BORROWER,

as Guarantors,

BANK OF AMERICA, N.A.,

as Administrative Agent,

GOLDMAN SACHS BANK USA,
CITIBANK, N.A.

CAPITAL ONE, NATIONAL ASSOCIATION
MIZUHO BANK, LTD.

and

PNC BANK, NATIONAL ASSOCIATION,

as Co-Syndication Agents,

INDUSTRIAL AND COMMERCIAL BANK OF CHINA LTD., NEW YORK BRANCH,

as Documentation Agent

and

THE OTHER LENDERS PARTY HERETO

Arranged By:

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,
GOLDMAN SACHS BANK USA
CITIGROUP GLOBAL CAPITAL MARKETS INC.
CAPITAL ONE, NATIONAL ASSOCIATION
and
PNC CAPITAL MARKETS LLC,
as Joint Lead Arrangers and Joint Bookrunners

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2.	In the amount of \$ ____.	1
3.	Comprised of ____	1
	[Type of Loan requested]	1
4.	For Eurodollar Rate Loans: with an Interest Period of ____ months.	1
(a)	The company-prepared financial statements which accompany this certificate are true and correct in all material respects and have been prepared in accordance with GAAP applied on a consistent basis, subject to changes resulting from normal year-end audit adjustments.	2

(b) Since _____(the date of the last similar certification, or, if none, the Closing Date) no Default or Event of Default has occurred under the Credit Agreement;	2
(c) (select one):	2

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TERM LOAN CREDIT AGREEMENT

This TERM LOAN CREDIT AGREEMENT is entered into as of September 8, 2017 among BGC PARTNERS, INC., a Delaware corporation (the “Borrower”), the Guarantors from time to time party hereto, the Lenders (defined herein) and BANK OF AMERICA, N.A., as Administrative Agent.

The Borrower has requested that the Lenders provide a term loan for the purposes set forth herein, and the Lenders are willing to do so on the terms and conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I

DEFINITIONS AND ACCOUNTING TERMS

1.01 Defined Terms.

As used in this Agreement, the following terms shall have the meanings set forth below:

“Acquisition”, by any Person, means the acquisition by such Person, in a single transaction or in a series of related transactions, of either (a) all or substantially all of the property of, or a line of business or division of, another Person or (b) at least a majority of the Voting Stock of another Person, in each case whether or not involving a merger or consolidation with such other Person.

“Administrative Agent” means Bank of America in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

“Administrative Agent’s Office” means the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 11.02 or such other address or account as the Administrative Agent may from time to time notify to the Borrower and the Lenders.

“Administrative Questionnaire” means an Administrative Questionnaire in substantially the form of Exhibit 11.06(b)(iv) or any other form approved by the Administrative Agent.

“Affiliate” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“Agreement” means this Term Loan Credit Agreement.

“Applicable Percentage” means with respect to any Lender at any time, the percentage of the outstanding principal amount of the Term Loans held by such Lender at such time. The initial Applicable Percentage of each Lender in respect of the Term Loans is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption or other documentation pursuant to which such Lender becomes a party hereto, as applicable. The Applicable Percentages shall be subject to adjustment as provided in Section 2.15.

“Applicable Rate” means the following percentages per annum, based on the applicable rate per annum set forth in the below table (and subject to the paragraphs below):

<u>Pricing Level</u>	<u>Debt Rating</u>	<u>Applicable Margin for Eurodollar Rate Loans</u>	<u>Applicable Margin for Base Rate Loans</u>
I	≥ BBB+/BBB+	150.0 bps	50.0 bps
II	BBB/BBB	187.5 bps	87.5 bps
III	BBB-/BBB-	225.0 bps	125.0 bps
IV	BB+/BB+	275.0 bps	175.0 bps
V	≤ BB/BB	325.0 bps	225.0 bps

Each change in the Applicable Rate resulting from a change in the Debt Rating of the Borrower shall be effective for the period commencing on the effective date of such change and ending on the date immediately preceding the effective date of the next such change. Notwithstanding the above, (i) if at any time there is a split in the Debt Ratings between S&P and Fitch, and the Debt Ratings differ by one level, then the Pricing Level for the higher of such Debt Ratings shall apply (with the Debt Rating for Pricing Level I being the highest and the Debt Rating for Pricing Level V being the lowest); (ii) if there is a split in Debt Ratings between S&P and Fitch of more than one level, then the Pricing Level that is one level lower than the Pricing Level of the higher Debt Rating shall apply; (iii) if the Borrower has only one Debt Rating, such Debt Rating shall apply; and (iv) if the Borrower does not have any Debt Rating, Pricing Level V shall apply.

Notwithstanding the above, (x) if there are any amounts outstanding under this Agreement as of December 31, 2017, the pricing shall increase by 50 bps at each pricing level until the Obligations are paid in full and (y) if there are any amounts outstanding under this Agreement as of June 30, 2018, the pricing shall increase by an additional 75 bps at each pricing level (125 bps in the aggregate) until the Obligations are paid in full.

“Approved Fund” means any Fund 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.

“Arrangers” means Merrill Lynch, Pierce, Fenner & Smith Incorporated (or any other registered broker-dealer wholly-owned by Bank of America Corporation to which all or substantially all of Bank of America Corporation’s or any of its subsidiaries’ investment banking, commercial lending services or related businesses may be transferred following the date of this Agreement), Goldman Sachs Bank USA, Citigroup Global Capital Markets Inc. and PNC Capital Markets LLC in their capacity as joint lead arrangers and bookrunners.

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 11.06(b)), and accepted by the Administrative Agent, in substantially the form of Exhibit 11.06(b) or any other form (including electronic documentation generated by use of an electronic platform) approved by the Administrative Agent.

“Attributable Indebtedness” means, with respect to any Person on any date, (a) in respect of any capital lease, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, (b) in respect of any Synthetic Lease Obligation, the capitalized amount of the remaining lease payments under the relevant lease that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease were accounted for as a capital lease, (c) in respect of any Securitization Transaction, the outstanding principal

amount of such financing, after taking into account reserve accounts and making appropriate adjustments, determined by the Administrative Agent in its reasonable judgment and (d) in respect of any Sale and Leaseback Transaction, the present value (discounted in accordance with GAAP at the debt rate implied in the applicable lease) of the obligations of the lessee for rental payments during the term of such lease.

“Audited Financial Statements” means the audited consolidated balance sheet of the Borrower and its Subsidiaries for the fiscal years ended 2014, 2015 and 2016, and the related consolidated statements of income or operations, shareholder’s equity and cash flows of the Borrower and its Subsidiaries for such fiscal year, including the notes thereto.

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

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

“Bank of America” means Bank of America, N.A. and its successors.

“Base Rate” means for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate plus 0.50%, (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its “prime rate” and (c) the Eurodollar Rate plus 1.0%; and if Base Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement. The “prime rate” is a rate set by Bank of America based upon various factors including Bank of America’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 Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change.

“Base Rate Loan” means a Loan that bears interest based on the Base Rate.

“Berkeley Point” means Berkeley Point Financial LLC and its Subsidiaries.

“Borrower” has the meaning specified in the introductory paragraph hereto.

“Borrower Materials” has the meaning specified in Section 6.02.

“Borrowing” means a borrowing consisting of simultaneous Loans of the same Type and, in the case of Eurodollar Rate Loans, having the same Interest Period made by each of the Lenders pursuant to Section 2.01.

“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, the state where the Administrative Agent’s Office is located and, if such day relates to any Eurodollar Rate Loan, means any such day that is also a day on which dealings in Dollar deposits are conducted by and between banks in the London interbank eurodollar market.

“Capital Requirements” means the minimum capital requirements applicable to a Regulated Subsidiary pursuant to applicable law, rule or regulation, including any such requirements imposed by any self-regulatory organization.

“Cash AD Loan” means a loan made by the Borrower or one of its Subsidiaries to an employee of the Borrower or one of its Subsidiaries which is to be repaid with the distributions in respect of limited partnership units allocated to such employee, and which is generally expected to be forgiven if such employee remains employed by the Borrower or one of its Subsidiaries at the conclusion of a specific period of time.

“Cash Equivalents” means any of the following types of Investments, to the extent owned by the Borrower or any of its Subsidiaries free and clear of all Liens (other than Permitted Liens):

(a) readily marketable obligations issued or directly and fully guaranteed or insured by the United States or any agency or instrumentality thereof having maturities of not more than three hundred sixty days (360) days from the date of acquisition thereof; provided that the full faith and credit of the United States is pledged in support thereof;

(b) time deposits with, or insured certificates of deposit or bankers’ acceptances of, any commercial bank that (i) (A) is a Lender or (B) is organized under the laws of the United States, any state thereof or the District of Columbia or is the principal banking subsidiary of a bank holding company organized under the laws of the United States, any state thereof or the District of Columbia, and is a member of the Federal Reserve System, (ii) issues (or the parent of which issues) commercial paper rated as described in clause (c) of this definition and (iii) has combined capital and surplus of at least \$1,000,000,000, in each case with maturities of not more than one year from the date of acquisition thereof;

(c) commercial paper issued by any Person organized under the laws of any state of the United States and rated at least “Prime-1” (or the then equivalent grade) by Moody’s or at least “A-1” (or the then equivalent grade) by S&P, in each case with maturities of not more than one year from the date of acquisition thereof; and

(d) Investments, classified in accordance with GAAP as current assets of the Borrower or any of its Subsidiaries, in money market investment programs registered under the Investment Company Act of 1940, which are administered by financial institutions that have the highest rating obtainable from either Moody’s or S&P, and the portfolios of which are limited solely to Investments of the character, quality and maturity described in clauses (a), (b) and (c) of this definition.

“CFTC” means the Commodities Futures Trading Commission or any other regulatory body that succeeds to the functions of the Commodities Futures Trading Commission.

“Change in Law” means the occurrence, after the Closing Date (or, with respect to any Lender that is not a Lender on the Closing Date, such later date on which such Lender becomes a party to this Agreement), of any of the following: (a) the adoption or taking effect of any Law, (b) any change in any Law or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of Law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) 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.

“Change of Control” means an event or series of events by which the Permitted Holders fail to own, directly or indirectly, a sufficient amount of the Voting Stock of the Borrower in order to elect a majority of the members of the Board of Directors of the Borrower.

“Closing Date” means the date of this Agreement.

“Commitment” means, as to each Lender, the Term Loan Commitment of such Lender.

“Commodity Exchange Act” means the Commodity Exchange Act (7 U.S.C. § 1 *et seq.*).

“Compliance Certificate” means a certificate substantially in the form of Exhibit 6.02.

“Connection Income Taxes” means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

“Consolidated EBITDA” means, for any period, for the Borrower and its Subsidiaries on a consolidated basis, an amount equal to Consolidated Net Income (excluding extraordinary and other non-recurring gains and losses and charges) for such period plus (x) the following to the extent deducted in calculating such Consolidated Net Income: (a) Consolidated Interest Charges with respect to the Borrower and its Subsidiaries for such period, (b) the provision for federal, state, local and foreign income taxes payable by Borrower and its Subsidiaries for such period, (c) the amount of depreciation and amortization expense (including any amortization related to mortgage servicing rights, any amortization related to bonuses, any amortization related to any forgivable loan made in lieu of or for the same purpose as a bonus and any amortization related to restricted stock awards or similar awards) for such period, (d) reserves taken on Cash AD Loans, (e) charges relating to grants of exchangeability to limited partnership interests, redemption or repurchase of units or shares or the issuance of restricted shares, (f) distributions on grant units or other partnership units and allocations of net income limited to partnership units and (g) impairment charges minus (y) non-cash gains attributable to originated mortgage servicing rights in accordance with GAAP; provided that for purposes of calculating the financial covenants, no EBITDA (either historically or prospectively) shall be counted from any Subsidiary to the extent it is contractually prohibited from making distributions to the Borrower at such time.

“Consolidated Funded Indebtedness” means, as of any date of determination, all Funded Indebtedness of the Borrower and its Subsidiaries.

“Consolidated Interest Charges” means, for any period, for any Person, the sum of the following items to the extent paid in cash during such period (a) all interest, premium payments, debt discount, fees, charges and related expenses in connection with borrowed money (including capitalized interest, but excluding any interest or other charges or expenses attributable to repurchase agreements and other securities lending or borrowing transactions) or in connection with the deferred purchase price of assets, in each case to the extent treated as interest in accordance with GAAP, plus (b) the portion of rent expense with respect to such period under capital leases that is treated as interest in accordance with GAAP plus (c) the implied interest component of Synthetic Lease Obligations with respect to such period.

“Consolidated Interest Coverage Ratio” means, as of any fiscal quarter-end for which it is to be determined, the ratio of (a) Consolidated EBITDA for the period of the four fiscal quarters ending on such date to (b) Consolidated Interest Charges with respect to the Borrower and its Subsidiaries for the period of the four fiscal quarters ending on such date, in each case calculated on a Pro Forma Basis in accordance with Section 1.03(c).

“Consolidated Leverage Ratio” means, as of any fiscal quarter-end for which it is to be determined, the ratio of (a) Consolidated Funded Indebtedness as of such date to (b) Consolidated EBITDA for the period of the four fiscal quarters ending on such date, in each case calculated on a Pro Forma Basis in accordance with Section 1.03(c).

“Consolidated Net Income” means, for any period, for the Borrower and its Subsidiaries on a consolidated basis, net income (or loss) for such period; provided that Consolidated Net Income shall exclude any income (or loss) for such period of any Person if such Person is not a Subsidiary, except that the Borrower’s equity in the net income of any such Person for such period shall be included in Consolidated Net Income up to the aggregate amount of cash actually distributed by such Person during such period to the Borrower or a Subsidiary as a dividend or other distribution.

“Consolidated Net Worth” means, at any date for which it is to be determined, the sum, without duplication, of the following items which would be shown on a consolidated balance sheet of the Borrower and its Subsidiaries prepared in accordance with GAAP as of such date: stockholders’ equity (including capital stock, additional paid-in capital, contingent stock, retained earnings and accumulated other comprehensive income) plus the aggregate amount of all redeemable partnership interests plus the aggregate amount of all non-controlling interests in Subsidiaries.

“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.

“Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “Controlling” and “Controlled” have meanings correlative thereto.

“Credit Extension” means any Borrowing.

“Debt Issuance” means the issuance by any Loan Party or any Subsidiary of a Loan Party of any Indebtedness (other than Indebtedness permitted by (or with respect to the Borrower of the types permitted by) Sections 7.03 (a), (b) (c)(i), (d), (e), (f), (g), (h), (i) and (k)).

“Debtor Relief Laws” means the Bankruptcy Code of the United States, 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.

“Debt Rating” means, as of any date of determination, the rating as determined by either S&P or Fitch of a Person’s non-credit-enhanced, senior unsecured long-term debt. The Debt Rating in effect at any date is the Debt Rating that is in effect at the close of business on such date.

“Default” means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“Default Rate” means (a) with respect to any Obligation for which a rate is specified, a rate per annum equal to two percent (2%) in excess of the rate otherwise applicable thereto and (b) with respect to any Obligation for which a rate is not specified or available, a rate per annum equal to the Base Rate plus the Applicable Rate for Loans that are Base Rate Loans plus two percent (2%), in each case, to the fullest extent permitted by applicable Law.

“Defaulting Lender” means, subject to Section 2.15(b), any Lender that (a) has failed to (i) fund all or any portion of its Loans within two Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within two Business Days of the date when due, (b) has notified the Borrower or the Administrative Agent in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender’s obligation to fund a Loan hereunder and states that such position is based on such Lender’s determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three Business Days after written request by the Administrative Agent or the Borrower, 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 shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Equity Interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender or (iii) become the subject of a Bail-In Action. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above, and of the effective date of such status, shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.15(b)) upon delivery of a written notice of such determination, which shall be delivered by the Administrative Agent to the Borrower and each other Lender promptly following such determination.

“Designated Jurisdiction” means any country or territory to the extent that such country or territory itself is the subject of any Sanction, including, without limitation, each of Belarus, Myanmar (Burma), Crimea region of Ukraine, Cuba, Iran, North Korea, Sudan, Syria and Zimbabwe.

“Disposition” or “Dispose” means the sale, transfer, license, lease or other disposition of any property by any Loan Party or any Subsidiary, including any Sale and Leaseback Transaction and any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

“Disqualified Institution” means (a) any competitors of the Borrower and its Subsidiaries identified on Schedule 1.01 as of the Closing Date and (b) any other Person who is a competitor of the Borrower and its Subsidiaries which has been designated by the Borrower as a “Disqualified Institution” by written notice to the Administrative Agent and the Lenders (including by posting such notice to the Platform) not less than 5 Business Days prior to the effectiveness thereof; provided that, (i) it is understood and agreed that Schedule 1.01 shall be updated upon the effectiveness of a new Disqualified Institution, (ii) the Administrative Agent shall have the right, and the Borrower hereby expressly authorizes the Administrative Agent, to post Schedule 1.01, and any updates thereto from time to time, on

the Platform and to provide Schedule 1.01 to each Lender requesting the same and (iii) “Disqualified Institutions” shall exclude any Person that the Borrower has designated as no longer being a “Disqualified Institution” by written notice delivered to the Administrative Agent and the Lenders. For the avoidance of doubt, with respect to any Person who becomes a Disqualified Institution after the date on which it entered into a binding agreement to purchase all or a portion of the rights and obligations of an assigning Lender, such Person shall not retroactively be disqualified from being or becoming a Lender.

“Dollar” and “\$” mean lawful money of the United States.

“Domestic Subsidiary” means any Subsidiary that is organized under the Laws of any state of the United States or the District of Columbia.

“EBITDA” means, with respect to any Person, that portion of Consolidated EBITDA attributable to such Person.

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

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

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

“Eligible Assignee” means any Person that meets the requirements to be an assignee under Sections 11.06(b)(iii) and (v) (subject to such consents, if any, as may be required under Section 11.06(b)(iii)).

“Eligible Line of Business” means (a) any business in which the Borrower or any of its Subsidiaries are engaged or have an Investment in as of the Closing Date, (b) financial services including but not limited to broker-dealer and capital market transactions involving financial products (and transactions and services related thereto), investment banking, and structured products and brokerage (including, but not limited to, prime brokerage), asset management (including, but not limited to, wealth management and fund management), market data, technology, trade execution, clearing (including correspondent clearing), processing, information, securitization, servicing, legal services or marketplace services in any industry, including but not limited to securities, financial products, real estate, commodities, shipping, insurance, intellectual property, spectrum and entertainment, (c) real estate services including brokerage, investment sales, consulting, project and development management, and property and facilities management, (d) acting as an energy reseller, (e) financing transactions and products loan origination or brokering and (f) any line of business complementary to the businesses in clause (a), (b), (c), (d) or (e).

“Environmental Laws” means any and all federal, state, local and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

“Environmental Liability” means any liability (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of any Loan Party or any Subsidiary directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Equity Interests” means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

“Equity Issuance” means any issuance by a Loan Party or any Subsidiary to any Person of its Equity Interests, other than (a) any issuance of its Equity Interests pursuant to the exercise of options or warrants, (b) any issuance of its Equity Interests pursuant to the conversion of any debt securities to equity or the conversion of any class of equity securities to any other class of equity securities, (c) any issuance of options or warrants relating to its Equity Interests, and (d) any issuance by the Borrower of its Equity Interests as consideration for a Permitted Acquisition.

“ERISA” means the Employee Retirement Income Security Act of 1974.

“ERISA Affiliate” means any trade or business (whether or not incorporated) under common control with the Borrower within the meaning of Section 414(b) or (c) of the Internal Revenue Code (and Sections 414(m) and (o) of the Internal Revenue Code for purposes of provisions relating to Section 412 of the Internal Revenue Code), and with respect to which liability to the Borrower is reasonably expected to attach.

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) the withdrawal of the Borrower or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which such entity was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Borrower or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Pension Plan amendment as a termination under Section 4041 or 4041A of ERISA, (e) the institution by the PBGC of proceedings to terminate a Pension Plan; (f) any event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (g) the determination that any Pension Plan is considered an at-risk plan or, to the knowledge of the Borrower, that a Multiemployer Plan is in endangered or critical status within the meaning of Sections 430, 431 and 432 of the Internal Revenue Code or Sections 303, 304 and 305 of ERISA, as applicable (h) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Borrower or any ERISA Affiliate or (i) a failure by the Borrower or any ERISA Affiliate to meet all applicable requirements under the Pension Funding Rules in respect of a Pension Plan, whether or not waived, or the failure by the Borrower or any ERISA Affiliate to make any required contribution to a Multiemployer Plan.

“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.

“Eurodollar Rate” means:

(a) for any Interest Period with respect to a Eurodollar Rate Loan, the rate per annum equal to the London Interbank Offered Rate (“LIBOR”) or (if not available) a comparable or successor rate, which rate is approved by the Administrative Agent, as published by Bloomberg (or, if not available, such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time) (in such case, the “LIBOR Rate”) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period; and

(b) for any interest calculation with respect to a Base Rate Loan on any date, the rate per annum equal to the LIBOR Rate, at approximately 11:00 a.m., London time determined two Business Days prior to such date for Dollar deposits with a term of one month commencing that day;

provided that (i) to the extent a comparable or successor rate is approved by the Administrative Agent in connection herewith, the approved rate shall be applied in a manner consistent with market practice; provided, further that to the extent such market practice is not administratively feasible for the Administrative Agent, such approved rate shall be applied as otherwise reasonably determined by the Administrative Agent and (ii) if the Eurodollar Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement.

“Eurodollar Rate Loan” means a Loan that bears interest at a rate based on clause (a) of the definition of “Eurodollar Rate.”

“Event of Default” has the meaning specified in Section 8.01.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to any Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the Laws of, or having its principal office or, in the case of any Lender, its Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a Law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 11.13) or (ii) such Lender changes its Lending Office, except in each case to the extent that, pursuant to Section 3.01(a)(ii), 3.01(a)(iii) or 3.01(c), amounts with respect to such Taxes were payable either to such Lender’s assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its Lending Office, (c) Taxes attributable to such Recipient’s failure to comply with Section 3.01(e) and (d) any U.S. federal withholding Taxes imposed pursuant to FATCA.

“Facility Termination Date” means the date as of which all of the following shall have occurred: (a) all Commitments have terminated and (b) all Obligations arising under the Loan Documents have been paid in full (other than contingent indemnification obligations).

“FASB ASC” means the Accounting Standards Codification of the Financial Accounting Standards Board.

“FATCA” means Sections 1471 through 1474 of the Internal Revenue Code, as of the Closing Date (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Internal Revenue Code and any applicable intergovernmental agreements implementing the foregoing.

“FCM” has the meaning set forth in the definition of “Regulated Subsidiary.”

“Federal Funds Rate” means, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to Bank of America on such day on such transactions as determined by the Administrative Agent and (c) if the Federal Funds Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement.

“Fee Letter” means that certain fee letter between the Borrower and Bank of America entered into as of August 11, 2017.

“FINRA” means the Financial Industry Regulatory Authority, Inc., or any other self-regulatory body which succeeds to the functions of the Financial Industry Regulatory Authority, Inc.

“Fitch” means Fitch, Inc., and any successor thereto.

“Foreign Lender” means (a) if the Borrower is a U.S. Person, a Lender that is not a U.S. Person, and (b) if the Borrower is not a U.S. Person, a Lender that is resident or organized under the Laws of a jurisdiction other than that in which the Borrower is resident for tax purposes. For purposes of this definition, the United States, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

“Foreign Subsidiary” means any Subsidiary that is not a Domestic Subsidiary.

“FRB” means the Board of Governors of the Federal Reserve System of the United States.

“Fund” means any Person (other than a natural Person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

“Funded Indebtedness” means, without duplication, (a) all obligations of such Person for all indebtedness created, assumed or incurred in any manner by such Person representing money borrowed (including by the issuance of debt securities), (b) all indebtedness for the deferred purchase price of

property or services (other than trade accounts payable arising in the ordinary course of business), (c) all indebtedness secured by any lien upon property of such Person, whether or not such Person has assumed or become liable for the payment of such indebtedness, (d) all Attributable Indebtedness of such Person, (e) all obligations of such Person on or with respect to letters of credit and bankers' acceptances, (f) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (g) all indebtedness for borrowed money of any other Person which is directly or indirectly guaranteed by the Borrower or any of its Subsidiaries or which the Borrower or any of its Subsidiaries has agreed (contingently or otherwise) to purchase or otherwise acquire or in respect of which the Borrower or any of its Subsidiaries has otherwise assured a creditor against loss and (h) all Guarantees of such Person in respect of the foregoing; provided, however, that Funded Indebtedness shall not include (i) accounts payable incurred in the ordinary course of business, (ii) short term obligations incurred in the ordinary course of business (iii) obligations of such Person in respect of Swap Contracts related to hedging or otherwise entered into in the ordinary course of business and (iv) to the extent such Person (x) is a Regulated Subsidiary or (y) Berkeley Point, obligations of such Person in respect of repurchase agreements or securities lending or borrowing agreements. Notwithstanding the foregoing, it is understood and agreed that the amount of Funded Indebtedness related to "bad boy guaranties" (including any related environmental indemnity) and the Guarantees by Berkeley Point to Fannie Mae under the Delegated Underwriting and Servicing Program and to Freddie Mac under the Targeted Affordable Housing Program shall, in each case, be equal to the amount of any such Indebtedness, if any, that is required by GAAP to be accrued for or otherwise set forth as a liability on the balance sheet of such Person.

"GAAP" means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board, consistently applied.

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

"Guarantee" means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness payable or performable by another Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness of the payment or performance of such Indebtedness or (iii) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness of any other Person, whether or not such Indebtedness is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien). 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 by the guaranteeing Person in good faith. The term "Guarantee" as a verb has a corresponding meaning.

“Guarantors” means, collectively, (a) each Subsidiary of the Borrower that becomes a Guarantor pursuant to Section 6.12 or otherwise, (b) each other Person that may become a Guarantor hereunder and (c) the successors and permitted assigns of the foregoing.

“Guaranty” means the Guaranty made by the Guarantors in favor of the Administrative Agent and the other holders of the Obligations pursuant to Article X.

“Hazardous Materials” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

“IB” has the meaning set forth in the definition of “Regulated Subsidiary.”

“IFRS” means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements delivered under or referred to herein.

“Indebtedness” means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

(a) all Funded Indebtedness;

(b) obligations under any Swap Contract;

(c) all obligations to purchase, redeem, retire, defease or otherwise make any payment prior to the Maturity Date in respect of any Equity Interests of the Borrower or any of its Subsidiaries or any warrant, right or option to acquire such Equity Interest, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends;

(d) all Guarantees of such Person in respect of any of the foregoing; and

(e) all Indebtedness of the types referred to in clauses (a) through (d) above 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 joint venture (but only to the extent such Person is liable therefor as a result of such interest), unless such Indebtedness is expressly made non-recourse to such Person.

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

“Indemnitee” has the meaning specified in Section 11.04(b).

“Information” has the meaning specified in Section 11.07.

“Interest Payment Date” means (a) as to any Eurodollar Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date; provided, however, that if any Interest Period for a Eurodollar Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any Base Rate Loan, the last Business Day of each March, June, September and December and the Maturity Date.

“Interest Period” means, as to each Eurodollar Rate Loan, the period commencing on the date such Eurodollar Rate Loan is disbursed or converted to or continued as a Eurodollar Rate Loan and ending on the date one, two, three or six months thereafter, or upon the consent of all Lenders, such other period that is twelve months or less (in each case, subject to availability), as selected by the Borrower in its Loan Notice; provided that:

(a) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day; and

(b) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period.

“Internal Revenue Code” means the Internal Revenue Code of 1986.

“Investment” means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person, or (c) an Acquisition. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

“IP Rights” has the meaning specified in Section 5.16.

“IRS” means the United States Internal Revenue Service.

“Joinder Agreement” means a joinder agreement substantially in the form of Exhibit 6.12 executed and delivered by a Subsidiary in accordance with the provisions of Section 6.12 or any other documents as the Administrative Agent shall deem appropriate for such purpose.

“Laws” means, collectively, all international, foreign, federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of Law.

“Lenders” means each of the Persons identified as a “Lender” on the signature pages hereto, each other Person that becomes a “Lender” in accordance with this Agreement and their successors and assigns.

“Lending Office” means, as to 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, which office may include any Affiliate of such Lender or any domestic or foreign branch of such Lender or such affiliate. Unless the context otherwise requires each references to a Lender shall include its applicable Lending Office.

“Lien” means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing).

“Loan” means an extension of credit by a Lender to the Borrower under Article II in the form of a Term Loan.

“Loan Documents” means this Agreement, each Note, each Joinder Agreement and the Fee Letter.

“Loan Notice” means a notice of (a) a Borrowing of Term Loans, (b) a conversion of Loans from one Type to the other, or (c) a continuation of Eurodollar Rate Loans, in each case pursuant to Section 2.02(a), which shall be substantially in the form of Exhibit 2.02 or such other form as may be approved by 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.

“Loan Parties” means, collectively, the Borrower and each Guarantor.

“Master Agreement” has the meaning specified in the definition of “Swap Contract.”

“Material Adverse Effect” means (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, financial condition, assets or properties of the Borrower and its Subsidiaries taken as a whole; (b) a material impairment of the ability of the Borrower to perform its obligations under any Loan Document to which it is a party; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against the Borrower of any Loan Document to which it is a party.

“Maturity Date” means September 8, 2019; provided, however, that if such date is not a Business Day, the Maturity Date shall be the next preceding Business Day.

“Moody’s” means Moody’s Investors Service, Inc. and any successor thereto.

“Multiemployer Plan” means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

“Multiple Employer Plan” means a single employer, as defined in Section 4001(a)(15) of ERISA, that is subject to Title IV of ERISA and that has two or more contributing sponsors (including the Borrower or any ERISA Affiliate) at least two of whom are not under common control, as such a plan is described in Section 4064 of ERISA.

“Net Cash Proceeds” means the aggregate cash or Cash Equivalents proceeds actually received by a Loan Party or any Subsidiary in respect of any Disposition, Equity Issuance or Debt Issuance net of (a) direct costs incurred in connection therewith (including, without limitation, legal, accounting and investment

banking fees, and sales commissions), (b) taxes paid or payable as a result thereof, (c) in the case of any Disposition, the amount necessary to retire any Indebtedness secured by a Permitted Lien on the related property and (d) in the case of any Disposition, a reasonable reserve for any indemnification payments (fixed or contingent) attributable to the seller's indemnities and representations and warranties to the purchaser in respect of such Disposition undertaken by a Loan Party or Subsidiary in connection with such Disposition; it being understood that "Net Cash Proceeds" shall include, without limitation, any cash or Cash Equivalents received upon the sale or other disposition of any non-cash consideration actually received by a Loan Party or any Subsidiary in any Disposition.

"Net Excess Capital" means the aggregate regulatory net capital, as defined in the applicable Capital Requirements, in excess of the aggregate required net capital under the Capital Requirements, as shown on the Borrower's most recent annual audited financial statements or quarterly management prepared statements delivered pursuant to Section 6.01, and, without duplication, as shown on the Borrower's SEC Forms 10-Q and 10-K.

"Newmark" means the Subsidiaries of the Borrower or Cantor Fitzgerald, L.P. that own or will own the Newmark Knight Frank business.

"NFA" means the National Futures Association or any other regulatory body that succeeds to the functions of the National Futures Association.

"Non-Consenting Lender" means any Lender that does not approve any consent, waiver or amendment that (a) requires the approval of all Lenders or all affected Lenders in accordance with the terms of Section 11.01 and (b) has been approved by the Required Lenders.

"Non-Defaulting Lender" means, at any time, each Lender that is not a Defaulting Lender at such time.

"Note" has the meaning specified in Section 2.11.

"Notice of Loan Prepayment" means a notice of prepayment with respect to a Loan, which shall be substantially in the form of Exhibit 2.05 or such other form as may be approved by 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.

"Obligations" means with respect to each Loan Party all advances to, and debts, liabilities, obligations, covenants and duties of, such Loan Party arising under any Loan Document or otherwise with respect to any Loan, in each case whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

"OFAC" means the Office of Foreign Assets Control of the United States Department of the Treasury.

"Organization Documents" means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement or limited liability company agreement (or equivalent or comparable documents with respect to any non-U.S. jurisdiction); (c) with respect to any partnership,

joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization (or equivalent or comparable documents with respect to any non-U.S. jurisdiction) and (d) with respect to all entities, any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization (or equivalent or comparable documents with respect to any non-U.S. jurisdiction).

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

“Other Taxes” means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 3.06).

“Participant” has the meaning specified in Section 11.06(d).

“Participant Register” has the meaning specified in Section 11.06(d).

“PBGC” means the Pension Benefit Guaranty Corporation.

“Pension Act” means the Pension Protection Act of 2006.

“Pension Funding Rules” means the rules of the Internal Revenue Code and ERISA regarding minimum required contributions (including any installment payment thereof) to Pension Plans and set forth in, with respect to plan years ending prior to the effective date of the Pension Act, Section 412 of the Internal Revenue Code and Section 302 of ERISA, each as in effect prior to the Pension Act and, thereafter, Section 412, 430, 431, 432 and 436 of the Internal Revenue Code and Sections 302, 303, 304 and 305 of ERISA.

“Pension Plan” means any “employee pension benefit plan” (within the meaning of Section 3(2) of ERISA) (including a Multiple Employer Plan, but excluding a Multiemployer Plan) that is maintained or is contributed to by the Borrower and any ERISA Affiliate and is either covered by Title IV of ERISA or is subject to the minimum funding standards under Section 412 of the Internal Revenue Code.

“Permitted Acquisition” means any Acquisition, provided that (a) no Default shall have occurred and be continuing or would result from such Acquisition, (b) if the Acquisition involves aggregate cash and non-cash consideration (including assumed Indebtedness, the good faith estimate by the Borrower of the maximum amount of any deferred purchase price obligations (including any earn out payments) and Equity Interests) in excess of the greater of \$50,000,000 and 4.5% of Consolidated Net Worth (as of the date of such Acquisition), the Person or property acquired in such Acquisition is in an Eligible Line of Business, (c) in the case of an Acquisition of the Equity Interests of another Person, the board of directors (or other comparable governing body) of such other Person shall have duly approved such Acquisition, and (d) the Borrower shall be in compliance with the financial covenants set forth in Section 7.11 recomputed as of the end of the period of the four fiscal quarters most recently ended for which the Borrower has delivered financial statements pursuant to Section 6.01(a) or (b) after giving effect to such

Acquisition on a Pro Forma Basis. It is understood and agreed that, if (x) the Acquisition of a Significant Subsidiary involves aggregate cash and non-cash consideration (including assumed Indebtedness, the good faith estimate by the Borrower of the maximum amount of any deferred purchase price obligations (including any earn out payments) and Equity Interests) in excess of the greater of \$50,000,000 and 4.5% of Consolidated Net Worth (as of the date of such Acquisition) and (y) the Consolidated Leverage Ratio shall be greater than 2.50:1.00 after giving effect to such Acquisition of a Significant Subsidiary on a Pro Forma Basis, the Borrower shall have delivered to the Administrative Agent a Pro Forma Compliance Certificate.

“Permitted Holders” means Cantor Fitzgerald, L.P., Howard W. Lutnick, any Person controlled by him or any trust established for Mr. Lutnick’s benefit or for the benefit of his spouse, any of his descendants or any of his relatives, in each case, so long as he is alive and, upon his death or incapacity, any person who shall, as a result of Mr. Lutnick’s death or incapacity, become a “beneficial owner” (as defined in Rule 13d-3 under the Securities Exchange Act) of the Borrower’s capital stock by operation of a trust, by will or the laws of descent and distribution or by operation of law.

“Permitted Liens” means, at any time, Liens in respect of property of any Loan Party or any Subsidiary permitted to exist at such time pursuant to the terms of Section 7.01.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Plan” means any employee benefit plan within the meaning of Section 3(3) of ERISA (including a Pension Plan, but other than a Multiemployer Plan), maintained for employees of the Borrower or any such Plan to which the Borrower is required to contribute on behalf of any of its employees.

“Platform” has the meaning specified in Section 6.02.

“Pro Forma Basis” means, with respect to any Specified Transaction, that for purposes of calculating the financial covenants set forth in Section 7.11, such Specified Transaction (including the incurrence of any Indebtedness therewith) shall be deemed to have occurred as of the first day of the most recent four fiscal quarter period preceding the date of such Specified Transaction for which financial statements were required to be delivered pursuant to Section 6.01(a) or 6.01(b). In connection with the foregoing, (a) with respect to any Disposition, (i) income statement and cash flow statement items (whether positive or negative) attributable to the property disposed of shall be excluded to the extent relating to any period occurring prior to the date of such Specified Transaction and (ii) Indebtedness which is retired shall be excluded and deemed to have been retired as of the first day of the applicable period and (b) with respect to any Acquisition, (i) income statement and cash flow statement items attributable to the Person or property acquired shall be included to the extent relating to any period applicable in such calculations to the extent (A) such items are not otherwise included in such income statement and cash flow statement items for the Borrower and its Subsidiaries in accordance with GAAP or in accordance with any defined terms set forth in Section 1.01 and (B) such items are supported by financial statements (if available) and such other information deemed necessary by a Responsible Officer in order to make a good faith determination (consistent with Article 11 of Regulation S-X of the Securities Act of 1933, as amended, as interpreted by the staff of the Securities and Exchange Commission) of such pro forma calculation and (ii) any Indebtedness incurred or assumed by the Borrower or any Subsidiary (including the Person or property acquired) in connection with such Specified Transaction and any Indebtedness of the Person or property acquired which is not retired in connection with such Specified Transaction (A) shall be deemed to have been incurred as of the first day of the applicable period and (B) if such Indebtedness has a floating or formula rate, shall have an implied rate of interest for the applicable period for purposes of this definition determined by utilizing the rate which is or would be in effect with respect to such Indebtedness as at the relevant date of determination.

“Pro Forma Compliance Certificate” means a certificate of a Responsible Officer of the Borrower containing reasonably detailed calculations of the financial covenants set forth in Section 7.11 recomputed as of the end of the period of the four fiscal quarters most recently ended for which the Borrower has delivered financial statements pursuant to Section 6.01(a) or (b) after giving effect to the applicable transaction on a Pro Forma Basis.

“Public Lender” has the meaning specified in Section 6.02.

“Recipient” means the Administrative Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder.

“Register” has the meaning specified in Section 11.06(c).

“Regulated Subsidiary” means any Subsidiary of the Borrower that is (i) registered as a broker dealer pursuant to Section 15 of the Securities Exchange Act of 1934 or that is regulated as a broker dealer or equivalent under any foreign securities law, (ii) that is registered as a Futures Commission Merchant (“FCM”), Introducing Broker (“IB”), Swap Exchange Facility (“SEF”) or other “registered entity” within the meaning of Section 1a(40) of the Commodity Exchange Act (7 U.S.C. 1 et seq.), or the equivalent under any foreign securities or commodities Law, or (iii) registered as a swap execution facility with the SEC or the CFTC.

“Regulation S-X” means Regulation S-X set forth in 17 C.F.R. Part 210 of the Securities Act of 1933.

“Related Parties” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person’s Affiliates.

“Reportable Event” means any of the events set forth in Section 4043(c) of ERISA, other than events for which the applicable notice period has been waived.

“Request for Credit Extension” means with respect to a Borrowing, conversion or continuation of Loans, a Loan Notice.

“Required Lenders” means, at any time, Lenders having Total Credit Exposures representing more than 50% of the Total Credit Exposures of all Lenders. The Total Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Lenders at any time.

“Resignation Effective Date” has the meaning specified in Section 9.06.

“Responsible Officer” means the chief executive officer, president, chief financial officer, treasurer, assistant treasurer, general partner, executive vice president, chief operating officer, chief administrative officer or controller of a Loan Party, and, solely for purposes of the delivery of incumbency certificates, the secretary or any 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 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. To the extent requested by the Administrative Agent, each Responsible Officer will provide an incumbency certificate and appropriate authorization documentation, in form and substance reasonably satisfactory to the Administrative Agent.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests of any Person, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, defeasance, acquisition, cancellation or termination of any such Equity Interests or on account of any return of capital to such Person’s stockholders, partners or members (or the equivalent Person thereof), or any option, warrant or other right to acquire any such dividend or other distribution or payment.

“Revolving Credit Facility” has the meaning set forth in Section 4.01(e).

“S&P” means Standard & Poor’s Financial Services LLC, a subsidiary of The McGraw Hill Companies, Inc. and any successor thereto.

“Sale and Leaseback Transaction” means, with respect to any Person, any arrangement, directly or indirectly, whereby such Person shall sell or transfer any property used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold or transferred.

“Sanction(s)” means any sanction administered or enforced by the United States Government, including OFAC, the United Nations Security Council, the European Union, Her Majesty’s Treasury (“HMT”) or other relevant sanctions authority.

“SEC” means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

“Securitization Transaction” means, with respect to any Person, any financing transaction or series of financing transactions (including factoring arrangements) pursuant to which such Person or any Subsidiary of such Person may sell, convey or otherwise transfer, or grant a security interest in, accounts, payments, receivables, rights to future lease payments or residuals or similar rights to payment to a special purpose subsidiary or affiliate of such Person.

“SEF” has the meaning set forth in the definition of “Regulated Subsidiary.”

“Seller Financing” has the meaning set forth in Section 4.01(f).

“Significant Subsidiary” has the meaning given to such term in Regulation S-X.

“Solvent” or “Solvency” means, with respect to any Person as of a particular date, that on such date (a) such Person is able to pay its debts and other liabilities, contingent obligations and other commitments as they mature in the ordinary course of business, (b) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person’s ability to pay such debts and liabilities as they mature in the ordinary course of business, (c) such Person is not engaged in a business or a transaction, and is not about to engage in a business or a transaction, for which such Person’s property would constitute unreasonably small capital, (d) the fair value of the property of such Person is

greater than the total amount of liabilities, including contingent liabilities, of such Person and (e) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

“Specified Transaction” means (a) any Acquisition of property or series of related acquisitions of property that (i) constitutes assets comprising all or substantially all of an operating unit of a business or constitutes all or substantially all of the common stock of a Person and (ii) involves the payment of consideration by the Borrower and its Subsidiaries in excess of the greater of \$50,000,000 and 4.5% of Consolidated Net Worth (as of the date of such Acquisition), (b) any Disposition of property or series of related Dispositions of property that (i) constitutes assets comprising all or substantially all of an operating unit of a business or constitutes all or substantially all of the common stock of a Person and (ii) yields gross proceeds to the Borrower or any of its Subsidiaries in excess of the greater of \$50,000,000 and 4.5% of Consolidated Net Worth (as of the date of such Disposition) and (c) any other Acquisition or Disposition designated by the Borrower as a “Specified Transaction” as of any fiscal quarter-end; provided that if the Borrower designates any Acquisition or Disposition as a Specified Transaction as of such fiscal quarter-end, then it must designate all Acquisitions and Dispositions consummated during the twelve month period prior to such designation as Specified Transactions.

“Subsidiary” of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which (a) a majority of the shares of Voting Stock is at the time beneficially owned by such Person and (b) is required to be consolidated into the financial statements of such Person in accordance with GAAP. Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of the Borrower.

“Swap Contract” 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 Termination Value” means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts 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 Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts (which may include a Lender or any Affiliate of a Lender).

“Synthetic Lease Obligation” means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease, or (b) an agreement for the use or possession of property creating obligations that do not appear on the balance sheet of such Person but which, upon the insolvency or bankruptcy of such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).

“Taxes” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Term Loans” has the meaning specified in Section 2.01.

“Term Loan Commitment” means, as to each Lender, its obligation to make its portion of the Term Loans to the Borrower on the Closing Date pursuant to Section 2.01, in the principal amount set forth opposite such Lender’s name on Schedule 2.01 (the “Term Loan Commitment”). The aggregate principal amount of the Term Loan Commitments of all Lenders as in effect on the Closing Date is \$575,000,000.

“Threshold Amount” means \$60,000,000.

“Total Credit Exposure” means, as to any Lender at any time, the outstanding Loans of such Lender at such time.

“Type” means, with respect to any Loan, its character as a Base Rate Loan or a Eurodollar Rate Loan.

“United States” and “U.S.” mean the United States of America.

“U.S. Person” means any Person that is a “United States Person” as defined in Section 7701(a)(30) of the Internal Revenue Code.

“U.S. Tax Compliance Certificate” has the meaning specified in Section 3.01(e)(ii)(B)(3).

“Voting Stock” means, with respect to any Person, Equity Interests issued by such Person the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of directors (or persons performing similar functions) of such Person, even though the right so to vote has been suspended by the happening of such a contingency.

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

1.02 Other Interpretive Provisions.

With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) 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 or other document (including any Loan Document or Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, modified, extended, restated, replaced or supplemented from time to time (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (iii) the words “hereto,” “herein,” “hereof” and “hereunder,” and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Preliminary Statements, Exhibits and Schedules shall be construed to refer to Articles and Sections of, Preliminary Statements of and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any Law shall include all statutory and regulatory rules, regulations, orders and provisions consolidating, amending, replacing or interpreting such Law and any reference to any Law or regulation shall, unless otherwise specified, refer to such Law or regulation as amended, modified, extended, restated, replaced or supplemented from time to time, and (vi) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all assets and properties, tangible and intangible, real and personal, including cash, securities, accounts and contract rights.

(b) 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.”

(c) 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.

1.03 Accounting Terms.

(a) Generally. 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 on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Audited Financial Statements, except as otherwise specifically prescribed herein. Notwithstanding the foregoing, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, Indebtedness of the Borrower and its Subsidiaries shall be deemed to be carried at 100% of the outstanding principal amount thereof, and the effects of FASB ASC 825 on financial liabilities shall be disregarded.

(b) Changes in GAAP. If at any time any change in GAAP (including the adoption of IFRS) would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Borrower shall provide to the Administrative Agent and the Lenders financial statements and

other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP. Without limiting the foregoing, leases shall continue to be classified and accounted for on a basis consistent with that reflected in the Audited Financial Statements for all purposes of this Agreement, notwithstanding any change in GAAP relating thereto, unless the parties hereto shall enter into a mutually acceptable amendment addressing such changes, as provided for above.

(c) Calculations. Notwithstanding the above, the parties hereto acknowledge and agree that all calculations of the financial covenants in Section 7.11 shall be made on a Pro Forma Basis with respect to any Specified Transaction.

1.04 Rounding.

Any financial ratios required to be maintained by the Borrower pursuant to 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).

1.05 Times of Day; Rates.

Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable). 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 "Eurodollar Rate" or with respect to any comparable or successor rate thereto.

ARTICLE II

THE COMMITMENTS AND CREDIT EXTENSIONS

2.01 Term Loan.

(a) Term Loan Commitment. Subject to the terms and conditions set forth herein, each Lender severally agrees to make its portion of a term loan (collectively, the "Term Loans") to the Borrower in Dollars, on the Closing Date, in an amount equal to such Lender's Term Loan Commitment; it being understood that the initial Term Loans must be drawn in one Borrowing. The Term Loans may be composed of Base Rate Loans or Eurodollar Rate Loans, or a combination thereof, as further provided herein.

(b) [Reserved].

2.02 Borrowings, Conversions and Continuations of Loans.

(a) Each Borrowing, each conversion of Loans from one Type to the other, and each continuation of Eurodollar Rate Loans shall be made upon the Borrower's irrevocable notice to the Administrative Agent, which may be given by (A) telephone, or (B) a Loan Notice; provided that any telephonic notice must be confirmed immediately by delivery to the Administrative Agent of a Loan Notice. Each such Loan Notice must be received by the Administrative Agent not later than 11:00 a.m. (i) three Business Days prior to the requested date of any Borrowing of, conversion to or continuation of, Eurodollar Rate Loans or of any conversion of Eurodollar Rate

Loans to Base Rate Loans, and (ii) on the requested date of any Borrowing of Base Rate Loans. Each Borrowing of, conversion to or continuation of Eurodollar Rate Loans shall be in a principal amount of \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof. Each Borrowing of or conversion to Base Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof. Each Loan Notice shall specify (i) whether the Borrower is requesting a Borrowing, a conversion of Loans from one Type to the other, or a continuation of Eurodollar Rate Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Loans to be borrowed, converted or continued, (iv) the Type of Loans to be borrowed or to which existing Loans are to be converted, and (v) if applicable, the duration of the Interest Period with respect thereto. If the Borrower fails to specify a Type of a Loan in a Loan Notice or if the Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Loans shall be made as, or converted to, Base Rate Loans. Any such automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurodollar Rate Loans. If the Borrower requests a Borrowing of, conversion to, or continuation of Eurodollar Rate Loans in any Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month.

(b) Following receipt of a Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Applicable Percentage of the applicable Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans described in the preceding subsection. In the case of a Borrowing, each Lender shall make the amount of its Loan available to the Administrative Agent in immediately available funds at the Administrative Agent's Office not later than 1:00 p.m. on the Business Day specified in the applicable Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02 (and, if such Borrowing is the initial Credit Extension, Section 4.01), the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrower on the books of Bank of America with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Borrower.

(c) Except as otherwise provided herein, a Eurodollar Rate Loan may be continued or converted only on the last day of the Interest Period for such Eurodollar Rate Loan. During the existence of a Default, no Loans may be requested as, converted to or continued as Eurodollar Rate Loans without the consent of the Required Lenders, and unless repaid, each outstanding Eurodollar Rate Loan shall be converted to a Base Rate Loan at the end of the Interest Period applicable thereto.

(d) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for Eurodollar Rate Loans upon determination of such interest rate. At any time that Base Rate Loans are outstanding, the Administrative Agent shall notify the Borrower and the Lenders of any change in Bank of America's prime rate used in determining the Base Rate promptly following the public announcement of such change.

(e) After giving effect to all Borrowings, all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not be more than ten Interest Periods in effect.

(f) Notwithstanding anything to the contrary in this Agreement, any Lender may exchange, continue or rollover all of the portion of its Loans in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by the Borrower, the Administrative Agent and such Lender.

2.03 [Reserved].

2.04 [Reserved].

2.05 Prepayments.

(a) Voluntary Prepayments. The Borrower may, upon delivery of a Notice of Loan Prepayment from the Borrower to the Administrative Agent, at any time or from time to time voluntarily prepay Term Loans in whole or in part without premium or penalty; provided that (A) such notice must be in a form acceptable to the Administrative Agent and be received by the Administrative Agent not later than 11:00 a.m. (1) three Business Days prior to any date of prepayment of Eurodollar Rate Loans and (2) on the date of prepayment of Base Rate Loans; (B) any such prepayment of Eurodollar Rate Loans shall be in a principal amount of \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof (or, if less, the entire principal amount thereof then outstanding); and (C) any prepayment of Base Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof (or, if less, the entire principal amount thereof then outstanding). Each such notice shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid and, if Eurodollar Rate Loans are to be prepaid, the Interest Period(s) of such Loans. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's Applicable Percentage of such prepayment. If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a Eurodollar Rate Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05. Subject to Section 2.15, each such prepayment shall be applied to the Loans of the Lenders in accordance with their respective Applicable Percentages.

(b) Mandatory Prepayments.

(i) Debt Issuances. Immediately upon receipt by a Loan Party or any Subsidiary of the Net Cash Proceeds of any Debt Issuance (other than (A) Debt Issuances under the Revolving Credit Facility and (B) other Debt Issuances in an amount up to \$25 million, in the aggregate), the Borrower shall prepay the Loans in an aggregate amount equal to 100% of such Net Cash Proceeds.

(ii) Equity Issuances. Immediately upon the receipt by a Loan Party or any Subsidiary of the Net Cash Proceeds of any Equity Issuance (other than (A) Equity Issuances in connection with the Borrower's existing DRIP program, (B) Equity Issuances pursuant to the Borrower's at-the-market controlled equity offering program (at the market shelf) intended to offset share repurchases, redemptions, exchanges and other payments in connection with compensation plans or arrangements or from current or former employees and partners or their estates or from directors, consultants or charities, in each case consistent with historic practices and (C) other Equity Issuances in an amount up to \$25 million, in the aggregate), the Borrower shall prepay the Loans in an aggregate amount equal to 100% of such Net Cash Proceeds.

(iii) Dispositions. Immediately upon receipt by a Loan Party or any Subsidiary of any Net Cash Proceeds from a Disposition (other than Dispositions (A) permitted by Sections 7.05(a)-(d) inclusive, (B) consisting of a casualty loss or condemnation with respect to property of the Borrower and its Subsidiaries in which the proceeds received therefrom have not been reinvested in assets of the Borrower and its Subsidiaries within 180 days from the date of receipt thereof, (C) by a Regulated Subsidiary to the extent the upstreaming of the proceeds of such Disposition to the Borrower require regulatory approvals that are not obtained after use of commercially reasonable efforts by the Borrower and its Subsidiaries to obtain such approvals and (D) other Dispositions in an amount equal to \$25 million, in the aggregate), the Borrower shall prepay the Loans in an aggregate amount equal to 100% of such Net Cash Proceeds.

(iv) Amortization. On the earlier of (A) January 31, 2018 and (B) the last day of the first month in which the Debt Rating of the Borrower is BB+ or lower as determined by S&P or BB+ or lower as determined by Fitch, the Borrower shall repay the outstanding principal amount of the Term Loans on the last day of each month (x) for each month through and including June 30, 2018, in an amount equal to 2.5% of the initial outstanding principal amount of the Term Loan and (y) on July 31, 2018 and each month thereafter, in an amount equal to 5% of the initial outstanding principal amount of the Term Loan. It is understood and agreed that any payments made pursuant to Section 2.05(a) or Sections 2.05(b)(i), (ii) and (iii) do not affect the amount of amortization due under this clause (iv).

(v) Application of Mandatory Prepayments. All amounts required to be paid pursuant to this Section 2.05(b) shall be applied first to Base Rate Loans and then to Eurodollar Rate Loans in direct order of Interest Period maturities. All prepayments under this Section 2.05(b) shall be subject to Section 3.05, but otherwise without premium or penalty, and shall be accompanied by interest on the principal amount prepaid through the date of prepayment.

2.06 Reserved

2.07 Repayment of Loans

(a) The Borrower shall repay to the Lenders on the Maturity Date the aggregate principal amount of all Term Loans and all other Obligations outstanding on such date.

(b) In the event a Change of Control occurs, (i) the Borrower shall promptly thereafter repay to the Lenders the aggregate principal amount of all Term Loans and all other Obligations outstanding on such date and (ii) the outstanding Commitments, if any, of each Lender shall be terminated.

2.08 Interest

(a) Subject to the provisions of subsection (b) below, (i) each Eurodollar Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the sum of the Eurodollar Rate for such Interest Period plus the Applicable Rate and (ii) each Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the sum of the Base Rate plus the Applicable Rate.

(b) (i) If any amount of principal of any Loan is not paid when due, whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(ii) If any amount (other than principal of any Loan) payable by the Borrower under any Loan Document is not paid when due, whether at stated maturity, by acceleration or otherwise, then upon the request of the Required Lenders, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(iii) Upon the request of the Required Lenders, while any Event of Default exists (other than as set forth in clauses (b)(i) and (b)(ii) above), the Borrower shall pay interest on the principal amount of all outstanding Obligations hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(iv) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

2.09 Fees.

The Borrower shall pay to the Lenders such fees as shall have been separately agreed upon in writing in the amounts and at the times so specified, including, without limitation, as set forth in the Fee Letter. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

2.10 Computation of Interest and Fees.

All computations of interest for Base Rate Loans (including Base Rate Loans determined by reference to the Eurodollar Rate) shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

2.11 Evidence of Debt.

The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and by the Administrative Agent in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any

Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a promissory note, which shall evidence such Lender's Loans in addition to such accounts or records. Each such promissory note shall be in the form of Exhibit 2.11 (a "Note"). Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

2.12 Payments Generally; Administrative Agent's Clawback; etc.

(a) General. All payments to be made by the Borrower shall be made free and clear of and without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in immediately available funds not later than 2:00 p.m. on the date specified herein. The Administrative Agent will promptly distribute to each Lender its Applicable Percentage (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 2:00 p.m. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(b) (i) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Eurodollar Rate Loans (or, in the case of any Borrowing of Base Rate Loans, prior to 12:00 noon on the date of such 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 Section 2.02 (or, in the case of a Borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.02) and may, in reliance upon such assumption, 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 and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in immediately available funds with interest thereon, 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 (A) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing, and (B) in the case of a payment to be made by the Borrower, the interest rate applicable to Base Rate Loans. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(ii) Payments by Borrower; Presumptions by Administrative Agent. 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 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, distribute to the Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender, 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 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 the Borrower with respect to any amount owing under this subsection (b) shall be conclusive, absent manifest error.

(c) Failure to Satisfy Conditions Precedent. If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) Obligations of Lenders Several. The obligations of the Lenders hereunder to make Loans and to make payments pursuant to Section 11.04(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 11.04(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and 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 11.04(c).

(e) Funding Source. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

(f) Lender ERISA Issues. Each Lender as of the Closing Date represents and warrants as of the Closing Date to the Administrative Agent and the Joint Lead Arrangers and their respective Affiliates, and not, for the avoidance of doubt, for the benefit of the Borrower or any other Loan Party, that (i) such Lender is not and will not be (A) an employee benefit plan subject to Title I of ERISA; (B) a plan or account subject to Section 4975 of the Code; or (C) a "governmental plan" within the meaning of ERISA; and (ii) the assets used by such Lender's Commitment do not include "plan assets" of any such plans or accounts for purposes of ERISA or the Code.

2.13 Sharing of Payments by Lenders.

If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of the Loans made by it resulting in such Lender's receiving payment of a proportion of the aggregate amount of such Loans and accrued interest thereon greater than its pro rata share thereof as provided herein, then the Lender receiving such greater

proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Loans, or make such other adjustments as shall be equitable, 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 and other amounts owing them, provided that:

(i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section shall not be construed to apply to (A) any payment made by or on behalf of the Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender) or (B) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant, other than an assignment to the Borrower or any Subsidiary (as to which the provisions of this Section shall apply).

Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Loan Party in the amount of such participation.

2.14 [Reserved].

2.15 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 applicable 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 the definition of "Required Lenders" and Section 11.01.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 11.08 shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, as the Borrower may request (so long as no Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; third, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement; fourth, to the payment of any amounts owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; fifth, so long as no Default

exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and sixth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction. 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 pursuant to this Section 2.15(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees. No Defaulting Lender shall be entitled to receive any fee payable under Section 2.09(a) for any period during which that 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 that Defaulting Lender).

(b) Defaulting Lender Cure. If the Borrower and the Administrative Agent agree in writing that a Lender is no longer a Defaulting Lender, 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, that Lender will, to the extent applicable, purchase at par 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 to be held on a pro rata basis by the Lenders in accordance with their Applicable Percentages, whereupon such 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 Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

ARTICLE III

TAXES, YIELD PROTECTION AND ILLEGALITY

3.01 Taxes.

(a) Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes.

(i) 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, except as required by applicable Laws. If any applicable Laws (as determined in the good faith discretion of the Administrative Agent) require the deduction or withholding of any Tax from any such payment by the Administrative Agent or a Loan Party, then the Administrative Agent or such Loan Party shall be entitled to make such deduction or withholding, upon the basis of the information and documentation to be delivered pursuant to subsection (e) below.

(ii) If any Loan Party or the Administrative Agent shall be required by the Internal Revenue Code to withhold or deduct any Taxes, including both United States Federal backup withholding and withholding taxes, from any payment, then (A) the Administrative Agent shall withhold or make such deductions as are determined by the Administrative Agent to be required based upon the information and documentation it

has received pursuant to subsection (e) below, (B) the Administrative Agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with the Internal Revenue Code, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Loan Party shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 3.01) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(iii) If any Loan Party or the Administrative Agent shall be required by any applicable Laws other than the Internal Revenue Code to withhold or deduct any Taxes from any payment, then (A) such Loan Party or the Administrative Agent, as required by such Laws, shall withhold or make such deductions as are determined by it to be required based upon the information and documentation it has received pursuant to subsection (e) below, (B) such Loan Party or the Administrative Agent, to the extent required by such Laws, shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with such Laws, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Loan Party shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 3.01) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(b) Payment of Other Taxes by the Loan Parties. Without limiting the provisions of subsection (a) above, the Loan Parties shall timely pay to the relevant Governmental Authority in accordance with applicable Laws, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(c) Tax Indemnifications. (i) Each of the Loan Parties shall, and does hereby, jointly and severally indemnify each Recipient, and shall make payment in respect thereof within ten days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error. Each of the Loan Parties shall, and does hereby, jointly and severally indemnify the Administrative Agent, and shall make payment in respect thereof within ten days after demand therefor, for any amount which a Lender for any reason fails to pay indefeasibly to the Administrative Agent as required pursuant to Section 3.01(c)(ii) below.

(ii) Each Lender shall, and does hereby, severally indemnify, and shall make payment in respect thereof within 10 days after demand therefor, (x) the Administrative Agent against 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 obligation of the Loan Parties to do so), (y) the Administrative Agent and the Loan Parties, as applicable, against any Taxes attributable to such Lender's failure to comply with the provisions of Section 11.06(d)

relating to the maintenance of a Participant Register and (z) the Administrative Agent and the Loan Parties, as applicable, against any Excluded Taxes attributable to such Lender that are payable or paid by the Administrative Agent or a Loan Party 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 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 clause (ii).

(d) Evidence of Payments. As soon as practicable, after any payment of Taxes by any Loan Party to a Governmental Authority as provided in this Section 3.01, such Loan Party 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 any return required by Laws to report such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) Status of Lenders: Tax Documentation.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable Law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 3.01(e)(ii)(A), 3.01(e)(ii)(B) and 3.01(e)(ii)(D) below) 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.

(ii) Without limiting the generality of the foregoing, in the event that the Borrower is a U.S. Person,

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(1) in the case of a Foreign 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 any Loan Document, executed copies of IRS Form W-8BENE (or W-8BEN, as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BENE (or W-8BEN, as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;

(2) executed copies of IRS Form W-8ECI;

(3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Internal Revenue Code, (x) a certificate substantially in the form of Exhibit 3.01-A to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Internal Revenue Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Internal Revenue Code (a “U.S. Tax Compliance Certificate”) and (y) executed copies of IRS Form W-8BENE (or W-8BEN, as applicable); or

(4) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BENE (or W-8BEN, as applicable), a U.S. Tax Compliance Certificate substantially in the form of Exhibit 3.01-B or Exhibit 3.01-C, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit 3.01-D on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of any other form prescribed by applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable Law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal 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 Internal Revenue Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by Law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Internal Revenue Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the Closing Date.

(iii) Each Lender agrees that if any form or certification it previously delivered pursuant to this Section 3.01 expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(f) Treatment of Certain Refunds. Unless required by applicable Laws, at no time shall the Administrative Agent have any obligation to file for or otherwise pursue on behalf of a Lender, or have any obligation to pay to any Lender, any refund of Taxes withheld or deducted from funds paid for the account of such Lender. If any Recipient determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified by any Loan Party or with respect to which any Loan Party has paid additional amounts pursuant to this Section 3.01, it shall pay to the Loan Party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by a Loan Party under this Section 3.01 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) incurred by such Recipient, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Loan Party, upon the request of the Recipient, agrees to repay the amount paid over to the Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Recipient in the event the Recipient is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this subsection, in no event will the applicable Recipient be required to pay any amount to the Loan Party pursuant to this subsection the payment of which would place the Recipient in a less favorable net after-Tax position than such Recipient would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This subsection shall not be construed to require any Recipient to make available its tax returns (or any other information relating to its taxes that it deems confidential) to any Loan Party or any other Person.

(g) Survival. Each party's obligations under this Section 3.01 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

3.02 Illegality.

If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its Lending Office to perform any of its obligations hereunder or make, maintain or fund or charge interest with respect to any Credit Extensions or to determine or charge interest rates based upon the Eurodollar Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, (i) any obligation of such Lender to issue, make, maintain, fund or charge interest with respect to any such Credit Extension or continue Eurodollar Rate Loans or to convert Base Rate Loans to Eurodollar Rate Loans shall be suspended and (ii) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the Eurodollar Rate component of the Base Rate, the interest rate on which Base Rate Loans of such Lender, shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurodollar Rate component of the 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 demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Eurodollar Rate Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurodollar Rate component of the Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Rate Loans and (y) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Eurodollar Rate, the Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the Eurodollar 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 Eurodollar Rate. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

3.03 Inability to Determine Rates.

(a) If in connection with any request for a Eurodollar Rate Loan or a conversion to or continuation thereof, (i) the Administrative Agent determines that (A) Dollar deposits are not being offered to banks in the London interbank eurodollar market for the applicable amount and Interest Period of such Eurodollar Rate Loan, or (B) adequate and reasonable means do not exist for determining the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan or in connection with an existing or proposed Base Rate Loan (in each case with respect to clause (i), “Impacted Loans”), or (ii) the Administrative Agent or the Required Lenders determine that for any reason the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Eurodollar Rate Loan, the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Eurodollar Rate Loans shall be suspended (to the extent of the affected Eurodollar Rate Loans or Interest Periods), and (y) in the event of a determination described in the preceding sentence with respect to the Eurodollar Rate component of the Base Rate, the utilization of the Eurodollar Rate component in determining the Base Rate shall be suspended, in each case until the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurodollar Rate Loans (to the extent of the affected Eurodollar Rate Loans or Interest Periods) or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans in the amount specified therein.

(b) Notwithstanding the foregoing, if the Administrative Agent has made the determination described in clause (a)(i) of this Section, the Administrative Agent, in consultation with the Borrower and the affected Lenders, may establish an alternative interest rate for the Impacted Loans, in which case, such alternative rate of interest shall apply with respect to the Impacted Loans until (1) the Administrative Agent revokes the notice delivered with respect to the Impacted Loans under clause (a)(i) of this Section, (2) the Administrative Agent or the Required Lenders notify the Borrower that such alternative interest rate does not adequately and fairly reflect the cost to such Lenders of funding the Impacted Loans, or (3) any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to such alternative rate of interest or to determine or charge interest rates based upon such rate or any Governmental Authority has imposed material restrictions on the authority of such Lender to do any of the foregoing and provides the Administrative Agent and the Borrower written notice thereof.

3.04 Increased Costs; Reserves on Eurodollar Rate Loans.

(a) Increased Costs Generally . 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 or participated in by, any Lender (except any reserve requirement contemplated by Section 3.04(d);

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income 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 the London interbank market any other condition, cost or expense affecting this Agreement or Eurodollar Rate Loans made by such Lender;

and the result of any of the foregoing shall be to increase the cost to such Lender of making, converting to, continuing or maintaining any Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender, or to reduce the amount of any sum received or receivable by such Lender (whether of principal, interest or any other amount) then, upon request of such Lender, the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered.

(b) Capital Requirements . If any Lender determines that any Change in Law affecting such Lender or any Lending Office of such Lender or such Lender's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by such Lender, to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy), then from time to time the Borrower will pay to such Lender, as the case may be, such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and 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 ten days after receipt thereof.

(d) Reserves on Eurodollar Rate Loans. The Borrower shall pay to each Lender, as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including eurocurrency funds or deposits (currently known as “Eurocurrency liabilities”), additional interest on the unpaid principal amount of each Eurodollar Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive), which shall be due and payable on each date on which interest is payable on such Loan, provided the Borrower shall have received at least ten (10) days’ prior notice (with a copy to the Administrative Agent) of such additional interest or costs from such Lender. If a Lender fails to give notice ten (10) days prior to the relevant Interest Payment Date, such additional interest shall be due and payable ten (10) days from receipt of such notice.

(e) Delay in Requests. Failure or delay on the part of any Lender to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender’s right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than nine months prior to the date that such Lender, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender’s intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

3.05 Compensation for Losses.

Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Eurodollar Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Eurodollar Rate Loan on the date or in the amount notified by the Borrower; or

(c) any assignment of a Eurodollar Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 11.13;

including any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained (but excluding any loss of anticipated profits). The Borrower shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by the Borrower to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each Eurodollar Rate Loan made by it at the Eurodollar Rate used in determining the Eurodollar Rate for such Loan by a matching deposit or other borrowing in the London interbank eurodollar market for a comparable amount and for a comparable period, whether or not such Eurodollar Rate Loan was in fact so funded.

3.06 Mitigation Obligations; Replacement of Lenders.

(a) Designation of a Different Lending Office. Each Lender may make any Credit Extension to the Borrower through any Lending Office, provided that the exercise of this option shall not affect the obligation of the Borrower to repay the Credit Extension in accordance with the terms of this Agreement. If any Lender requests compensation under Section 3.04, or requires the Borrower to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then at the request of the Borrower such Lender shall use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) Replacement of Lenders. If any Lender requests compensation under Section 3.04, or if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01 and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with Section 3.06(a), the Borrower may replace such Lender in accordance with Section 11.13.

3.07 Survival.

All of the Loan Parties' obligations under this Article III shall survive termination of the Commitments, repayment of all other Obligations hereunder, and resignation of the Administrative Agent.

ARTICLE IV

CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

4.01 Conditions of Initial Credit Extension.

This Agreement shall become effective upon, and the obligation of each Lender to make its initial Credit Extension hereunder is subject to, the satisfaction of the following conditions precedent:

(a) Documentation. Receipt by the Administrative Agent of the following, each in form and substance satisfactory to the Administrative Agent and each Lender:

(i) Loan Documents. Executed counterparts of this Agreement and the other Loan Documents, each properly executed by a Responsible Officer of the signing Loan Party and, in the case of this Agreement, by each Lender.

(ii) Opinions of Counsel. Favorable opinions of legal counsel to the Loan Parties, addressed to the Administrative Agent and each Lender, dated as of the Closing Date.

(iii) Organization Documents, Resolutions, Etc.

(A) copies of the Organization Documents of each Loan Party certified to be true and complete as of a recent date by the appropriate Governmental Authority of the state or other jurisdiction of its incorporation or organization, where applicable, and certified by a secretary or assistant secretary of such Loan Party to be true and correct as of the Closing Date;

(B) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party; and

(C) such documents and certifications as the Administrative Agent may reasonably require to evidence that each Loan Party is duly organized or formed, and is validly existing, in good standing and qualified to engage in business in its state of organization or formation

(iv) Audited Financial Statements. The Audited Financial Statements.

(v) Closing Certificate. A certificate signed by a Responsible Officer of the Borrower certifying that (A) the conditions specified in Sections 4.01(b) and (c) and 4.02(a) and 4.02(b) have been satisfied and (B) that there has been no event or circumstance since the date of the Audited Financial Statements that has had or would be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect.

(b) Litigation. Other than as disclosed in the Audited Financial Statements for the fiscal year ending December 31, 2016 or as set forth on Schedule 5.06, there shall not exist any action, suit, investigation or proceeding pending or, to the knowledge of the Borrower, threatened in any court or before an arbitrator or Governmental Authority that could reasonably be expected to have a Material Adverse Effect.

(c) Consents. All governmental, shareholder and third party consents and approvals necessary in connection with the transactions contemplated hereby shall have been obtained and all such consents and approvals shall be in force and effect.

(d) Existing Credit Agreement. Receipt by the Administrative Agent of evidence that all obligations under the existing Credit Agreement, dated as of February 25, 2016, among the Borrower, the Administrative Agent and the other lenders party thereto have been paid in full and all commitments thereunder terminated.

(e) Revolving Credit Facility. Receipt by the Administrative Agent of evidence that the Borrower has entered into (or is entering into simultaneously with this Agreement) a revolving credit agreement (the “Revolving Credit Facility”) on terms satisfactory to the Borrower and the Administrative Agent.

(f) Acquisition/Seller Financing. Receipt by the Administrative Agent of (i) evidence that the acquisition of Berkeley Point by the Borrower has occurred or is occurring simultaneously with this Agreement and (ii) evidence that any seller financing entered into in respect of the acquisition by the Borrower of Berkeley Point (the “Seller Financing”), if any, is on terms satisfactory to the Administrative Agent, including as to maturity, subordination and assignability.

(g) Fees. Receipt by the Administrative Agent, the Arrangers and the Lenders of any fees required to be paid on or before the Closing Date, including, but not limited to, the fees set forth in the Fee Letter.

(h) Attorney Costs. The Borrower shall have paid all reasonable fees, charges and disbursements of counsel to the Administrative Agent (directly to such counsel if requested by the Administrative Agent) to the extent invoiced prior to or on the Closing Date, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between the Borrower and the Administrative Agent).

Without limiting the generality of the provisions of the last paragraph of Section 9.03, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

4.02 Conditions to all Credit Extensions.

The obligation of each Lender to honor any Request for Credit Extension (other than a Loan Notice requesting only a conversion of Loans to the other Type, or a continuation of Eurodollar Rate Loans) is subject to the following conditions precedent:

(a) The representations and warranties of each Loan Party contained in Article V or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects (other than those representations and warranties qualified by materiality or Material Adverse Effect, in which case they shall be true and correct in all respects) on and as of the date of such Credit Extension, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects (other than those representations and warranties qualified by materiality or Material Adverse Effect, in which case they shall be true and correct in all respects) as of such earlier date.

(b) No Default shall exist, or would result from such proposed Credit Extension or from the immediate application of the proceeds thereof (if applicable) and the Borrower shall be in compliance with Section 7.11 as of the end of the most recently fiscal quarter for which financial statements have been delivered pursuant to Section 6.01 after giving effect to the proviso in the definition of Consolidated EBITDA.

(c) The Administrative Agent shall have received a Request for Credit Extension in accordance with the requirements hereof.

Each Request for Credit Extension (other than a Loan Notice requesting only a conversion of Loans to the other Type, or a continuation of Eurodollar Rate Loans) submitted by the Borrower shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a) and (b) have been satisfied on and as of the date of the applicable Credit Extension.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Administrative Agent and the Lenders that:

5.01 Existence, Qualification and Power.

(a) Each Loan Party and each Significant Subsidiary (i) is duly organized or formed, validly existing and, as applicable, in good standing under the Laws of the jurisdiction of its incorporation or organization, (ii) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (A) own or lease its assets and carry on its business and (B) execute, deliver and perform its obligations under the Loan Documents to which it is a party, and (iii) is duly qualified and is licensed and, as applicable, in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license; except in each case referred to in clause (ii)(A) or (iii), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

(b) Each Subsidiary of the Borrower (other than a Significant Subsidiary) (i) is duly organized or formed, validly existing and, as applicable, in good standing under the Laws of the jurisdiction of its incorporation or organization, (ii) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to own or lease its assets and carry on its business and (iii) is duly qualified and is licensed and, as applicable, in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license, except, in each case, to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

5.02 Authorization; No Contravention.

The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is party have been duly authorized by all necessary corporate or other organizational action, and do not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach or contravention of, or the creation of any Lien under, or require any payment to be made under (i) any Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (c) violate any Law.

5.03 Governmental Authorization: Other Consents.

No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document other than those that have already been obtained and are in full force and effect.

5.04 Binding Effect.

Each Loan Document has been duly executed and delivered by each Loan Party that is party thereto. Each Loan Document constitutes a legal, valid and binding obligation of each Loan Party that is party thereto, enforceable against each Loan Party that is party thereto in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

5.05 Financial Statements: No Material Adverse Effect.

(a) The financial statements delivered pursuant to Sections 6.01(a) and 6.01(b) (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present the financial condition of the Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein (subject, in the case of unaudited financial statements, to the absence of footnotes and to normal year-end audit adjustments); and (iii) show all material indebtedness and other liabilities, direct or contingent, of the Borrower and its Subsidiaries as of the date thereof, including liabilities for taxes, material commitments and Indebtedness.

(b) The Audited Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present the financial condition of the Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby (subject, in the case of unaudited financial statements, to the absence of footnotes and to normal year-end audit adjustments); and (iii) show all material indebtedness and other liabilities, direct or contingent, of the Borrower and its Subsidiaries as of the date thereof, including liabilities for taxes, material commitments and Indebtedness.

(c) Since December 31, 2016, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

5.06 Litigation.

Other than as disclosed in the Audited Financial Statements or as set forth on Schedule 5.06, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against any Loan Party or any Subsidiary or against any of their properties or revenues that (a) purport to affect or pertain to this Agreement or any other Loan Document, or any of the transactions contemplated hereby or (b) could reasonably be expected to have a Material Adverse Effect.

5.07 No Default.

No Default has occurred and is continuing.

5.08 Ownership of Property.

Each Loan Party and each of its Subsidiaries has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of its business, except for such defects in title as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

5.09 Taxes.

Each Loan Party and its Subsidiaries have filed all federal, state and other material tax returns and reports required to be filed, and have paid all federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except (a) those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP or (b) to the extent that the failure to do so could not reasonably be expected to result in a Material Adverse Effect. There is no proposed tax assessment against any Loan Party or any Subsidiary that would, if made, have a Material Adverse Effect. Other than as set forth on Schedule 5.09, no Loan Party is party to any tax sharing agreement with anyone.

5.10 ERISA Compliance.

(a) Except as would not reasonably be expected to have a Material Adverse Effect: (i) each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Internal Revenue Code and other federal or state Laws; (ii) each Pension Plan that is intended to be a qualified plan under Section 401(a) of the Internal Revenue Code has received a favorable determination letter from the IRS to the effect that the form of such Plan is qualified under Section 401(a) of the Internal Revenue Code and the trust related thereto has been determined by the IRS to be exempt from federal income tax under Section 501(a) of the Internal Revenue Code, or an application for such a letter is currently being processed by the IRS; and (iii) to the best knowledge of the Borrower, nothing has occurred that would reasonably be expected to prevent or cause the loss of such tax-qualified status.

(b) There are no pending or, to the knowledge of any Loan Party, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that would reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or would reasonably be expected to result in a Material Adverse Effect.

(c) Except as would not reasonably be expected to have a Material Adverse Effect: (i) No ERISA Event has occurred, and no Loan Party is aware of any fact, event or circumstance that could reasonably be expected to constitute or result in an ERISA Event with respect to any Pension Plan; (ii) each Loan Party and each ERISA Affiliate has met all applicable requirements under the Pension Funding Rules in respect of each Pension Plan, and no waiver of the minimum funding standards under the Pension Funding Rules has been applied for or obtained; (iii) as of the most recent valuation date for any Pension Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Internal Revenue Code) is 60% or higher and neither a Loan Party nor any ERISA Affiliate knows of any facts or circumstances that would reasonably be expected to cause the funding target attainment percentage for any such plan to drop below 60% as of the most recent valuation date; (iv) no Loan Party has incurred any liability to the PBGC

other than for the payment of premiums, and there are no premium payments which have become due that are unpaid; (v) neither a Loan Party nor any ERISA Affiliate has engaged in a transaction that would reasonably be expected to be subject to Section 4069 or Section 4212(c) of ERISA; and (vi) no Pension Plan has been terminated by the plan administrator thereof nor by the PBGC, and no event or circumstance has occurred or exists that would reasonably be expected to cause the PBGC to institute proceedings under Title IV of ERISA to terminate any Pension Plan.

(d) The Borrower is not and will not be (i) an employee benefit plan subject to Title I of ERISA; (ii) a plan or account subject to Section 4975 of the Code; (iii) an entity deemed to hold “plan assets” of any such plans or accounts for purposes of ERISA or the Code; or (iv) a “governmental plan” within the meaning of ERISA.

5.11 Subsidiaries.

Set forth on Schedule 5.11 is a complete and accurate list of (a) each Significant Subsidiary of the Borrower other than Regulated Subsidiaries, (b) each Subsidiary that is a Guarantor and (c) the jurisdiction of organization, exact legal name and U.S. tax payer identification number of the Borrower and each other Loan Party, in each case as of the Closing Date and as of the date of any update to Schedule 5.11 pursuant to Section 6.02(b).

5.12 Margin Regulations; Investment Company Act.

(a) Margin stock (as defined in Regulation U of the Board of Governors of the FRB) constitutes less than 25% of the value of those assets of the Borrower and its Subsidiaries (other than any Subsidiary which is an “exempted borrower” within the meaning of Regulation U of the FRB) which are subject to any limitation on sale, pledge, or other restriction hereunder. Neither the making of any Loan nor the use of the proceeds thereof will violate or be inconsistent with the provisions of Regulation T, Regulation U or Regulation X of the Board of Governors of the FRB.

(b) None of the Borrower, any Person Controlling the Borrower, or any Significant Subsidiary is or is required to be registered as an “investment company” under the Investment Company Act of 1940.

(c) Each domestic Regulated Subsidiary which is a broker dealer subject to the provisions of Regulation T of the FRB and extends purpose credit to customers (as those terms are defined in Regulation T) maintains procedures and internal controls reasonably designed to ensure that such Regulated Subsidiary does not extend or maintain purpose credit to or for its customers other than in accordance with the provisions of Regulation T, and members of each such domestic Regulated Subsidiary regularly supervise its activities and the activities of members and employees of such Regulated Subsidiary to ensure that such Regulated Subsidiary does not extend purpose credit to or for its customers other than in accordance with the provisions of Regulation T.

(d) Each Regulated Subsidiary (i) is a member in good standing of the FINRA, the NFA and/or the equivalent foreign self-regulatory body, (ii) (A) if a Domestic Subsidiary, (x) is duly registered as a broker-dealer with the SEC and/or duly registered as an FCM, IB or SEF with the CFTC, and (y) except where the failure to so register would not reasonably be expected to result in a Material Adverse Effect, is duly registered in each state where the conduct of its business requires such registration and (B) if a Foreign Subsidiary, is duly registered as with the appropriate foreign regulatory body, in each case where the conduct of its business requires such registration, except where the failure to so register would not reasonably be expected to result in a Material Adverse Effect.

5.13 Disclosure.

Neither any Loan Document nor any other agreement, document, instrument, certificate or statement (other than (i) any other projections, estimates, or other forward-looking information and (ii) any forward-looking pro forma financial information) furnished to the Administrative Agent and the Lenders by or on behalf of a Loan Party in connection with the transactions contemplated hereby, at the time it was furnished contained any untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements contained herein or therein, under the circumstances under which they were made, not misleading (considered in the context of all other information provided to the Lenders). Any projections, estimates, forward-looking information or any forward-looking pro forma financial information furnished to the Administrative Agent (whether in writing or orally) pursuant to this Agreement are based on good faith estimates and assumptions believed by management of Borrower or the applicable Loan Party to be reasonable at the time made, it being understood by the Administrative Agent and the Lenders that, without limiting the foregoing representation, (i) any information as it relates to future events is not to be viewed as fact, and (ii) actual results during the period or periods covered by such information are subject to significant uncertainties and contingencies and may differ materially from the projected results set forth therein.

5.14 Compliance with Laws.

Each Loan Party and each Subsidiary is in compliance with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

5.15 Intellectual Property: Licenses, Etc.

Each Loan Party and each Subsidiary owns, possesses or can acquire on reasonable terms the right to use, all of the trademarks, service marks, trade names, copyrights, patents and other intellectual property rights that are reasonably necessary for the operation of its businesses, without conflict with the rights of any other Person to the knowledge of such Loan Party or Subsidiary, except for any such failure to own or possess or conflict that could not reasonably be expected to have a Material Adverse Effect.

5.16 Solvency.

The Borrower is Solvent and the Borrower and its Subsidiaries are Solvent on a consolidated basis.

5.17 OFAC.

None of the Loan Parties, nor any of their Subsidiaries, nor, to the knowledge of the Loan Parties and their Subsidiaries, any director, officer, employee, agent, affiliate or representative thereof, is an individual or entity that is, or is owned or controlled by any individual or entity that is (i) currently the subject or target of any Sanctions, (ii) included on OFAC's List of Specially Designated Nationals, HMT's Consolidated List of Financial Sanctions Targets and the Investment Ban List, or any similar list enforced by any other relevant sanctions authority or (iii) located, organized or resident in a Designated Jurisdiction.

5.18 Anti-Corruption Laws.

The Loan Parties and their Subsidiaries and, to the knowledge of the Borrower and its Subsidiaries, any director or officer have each conducted their businesses in material compliance with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, and other similar anti-corruption legislation in other jurisdictions and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

5.19 EEA Financial Institution.

Neither the Borrower, nor any of its Subsidiaries is an EEA Financial Institution.

ARTICLE VI

AFFIRMATIVE COVENANTS

Until the Facility Termination Date, the Borrower shall:

6.01 Financial Statements.

Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent:

(a) as soon as available, but in any event within one hundred and twenty days after the end of each fiscal year of the Borrower, commencing with the fiscal year ending December 31, 2017, (i) a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal year, together with the related consolidated statements of income or operations, changes in shareholders' equity and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, and in connection with the financial statements in clause (i) above, audited and accompanied by a report and opinion of an independent certified public accountant of nationally recognized standing reasonably acceptable to the Administrative Agent, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit and (ii) such other financial information regarding the Borrower and its Subsidiaries as reasonably requested by the Administrative Agent in order to determine compliance with Section 7.11; and

(b) as soon as available, but in any event within sixty days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower, commencing with the fiscal quarter ending September 30, 2017, (i) a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal quarter, together with the related consolidated statements of income or operations for such fiscal quarter and for the portion of the Borrower's fiscal year then ended, and the related consolidated statements of changes in shareholders' equity and cash flows for the portion of the Borrower's fiscal year then ended, in each case setting forth in comparative form, as applicable, the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail and certified by the chief executive officer, chief financial officer, treasurer or controller of the Borrower as fairly presenting the financial condition, results of operations, shareholders' equity and cash flows of the Borrower and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes and (ii) such other financial information regarding the Borrower and its Subsidiaries as reasonably requested by the Administrative Agent in order to determine compliance with Section 7.11.

As to any information contained in materials furnished pursuant to Section 6.02(c), the Borrower shall not be separately required to furnish such information under Section 6.01(a) or 6.01(b), but the foregoing shall not be in derogation of the obligation of the Borrower to furnish the information and materials described in Section 6.01(a) or 6.01(b) at the times specified therein.

6.02 Certificates; Other Information.

Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent and the Required Lenders:

(a) concurrently with the delivery of the financial statements referred to in Section 6.01(a), a certificate of its independent certified public accountants certifying such financial statements;

(b) concurrently with the delivery of the financial statements referred to in Sections 6.01(a) and 6.01(b), a duly completed Compliance Certificate signed by the chief executive officer, chief financial officer, treasurer or controller of the Borrower (which delivery may, unless the Administrative Agent, or a Lender requests executed originals, be by electronic communication including fax or email and shall be deemed to be an original authentic counterpart thereof for all purposes) which shall, among other things, (i) demonstrate compliance with the covenants set forth in Section 7.11 and (ii) update Schedule 5.11, as applicable;

(c) promptly after the same are available, copies of each annual report, each material proxy or material financial statement or other material report or communication sent to the public equityholders of any Loan Party or any Subsidiary, and copies of all material annual, regular, periodic and special reports and material registration statements which a Loan Party or any Subsidiary may file or be required to file with the SEC under Section 13 or 15(d) of the Securities Exchange Act of 1934, and not otherwise required to be delivered to the Administrative Agent pursuant hereto;

(d) promptly after any request by the Administrative Agent, copies of any material detailed audit reports or management letters submitted to the board of directors (or the audit committee of the board of directors) of the Borrower by independent accountants in connection with the accounts or books of the Borrower or any Subsidiary;

(e) [Reserved];

(f) promptly, and in any event within five Business Days after receipt thereof by the any Loan Party or any Subsidiary, copies of each notice or other correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdiction) concerning any investigation or possible investigation or other material inquiry by such agency regarding financial or other operational results of any Loan Party or any Subsidiary; and

(g) promptly, such additional information regarding the business, financial or corporate affairs of any Loan Party or any Subsidiary, or compliance with the terms of the Loan Documents, as the Administrative Agent or any Lender may from time to time reasonably request.

Documents required to be delivered pursuant to Section 6.01(a) or 6.01(b) or Section 6.02(c) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (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 11.02; or (ii) on which such documents are posted on the Borrower's behalf on an Internet or intranet website (including www.sec.gov/edgar.shtml), if any, to which each Lender and the Administrative Agent have 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 or any Lender upon its request to the Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (ii) the Borrower shall notify the Administrative Agent and each Lender (by facsimile or electronic mail) of the posting of any such documents and 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 to maintain paper copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request by a Lender for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Arrangers may, but shall not be obligated to, make available to the Lenders materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks, Syndtrak, ClearPar or a substantially similar electronic transmission system (the "Platform") and (b) certain of the Lenders (each a "Public Lender") may have personnel who do not wish to receive material non-public information with respect to the Borrower or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. The Borrower hereby agrees that (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent, the Arrangers and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to the Borrower or its securities for purposes of United States federal and state securities Laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 11.07); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information;" and (z) the Administrative Agent and the Arrangers shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated as "Public Side Information." Notwithstanding the foregoing, the Borrower shall be under no obligation to mark any Borrower Materials "PUBLIC."

6.03 Notices.

Promptly notify the Administrative Agent and each Lender of:

(a) the occurrence of any Default.

(b) any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect, including (i) breach or non-performance of, or any default under, a Contractual Obligation of a Loan Party or any Subsidiary; (ii) any dispute, litigation, investigation, proceeding or suspension between a Loan Party or any Subsidiary and any Governmental Authority; or (iii) the commencement of, or any material development in, any litigation or proceeding affecting a Loan Party or any Subsidiary, including pursuant to any applicable Environmental Laws.

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- (c) the occurrence of any ERISA Event that has had or that would reasonably be expected to result in a Material Adverse Effect.
 - (d) any material change in accounting policies or financial reporting practices by a Loan Party or any Subsidiary.
 - (e) any announcement by S&P or Fitch of any change in a Debt Rating of the Borrower.

Each notice pursuant to this Section 6.03 (other than clause (e)) shall be accompanied by a statement of a Responsible Officer of the Borrower setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto. Each notice pursuant to Section 6.03(a) shall describe with particularity any and all provisions of this Agreement and any other Loan Document that have been breached (if any).

6.04 Payment of Taxes.

Cause itself and each of its Subsidiaries to pay and discharge within thirty (30) days of the date the same shall become due and payable, all its tax liabilities, assessments and governmental charges or levies upon it or its properties, unless (a) the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by the Borrower or the applicable Subsidiary in connection therewith or (b) the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

6.05 Preservation of Existence, Etc.

Cause itself and each of its Subsidiaries to (a) except as permitted pursuant to Section 7.04, preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization; (b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and (c) preserve or renew all of its registered patents, trademarks, trade names and service marks, in each case, the non-preservation of which could reasonably be expected to have a Material Adverse Effect.

6.06 Maintenance of Properties.

Cause itself and each of its Subsidiaries to (a) maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear and casualty and condemnation excepted; and (b) make all necessary repairs thereto and renewals and replacements thereof, except, in the case of each of clauses (a) and (b) hereof, where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

6.07 Maintenance of Insurance.

Cause itself and each of its Subsidiaries to maintain with financially sound and reputable insurance companies not Affiliates of the Borrower, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons, except in instances where the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

6.08 Compliance with Laws.

(a) Cause itself and each of its Subsidiaries to comply in all material respects with the requirements of all Laws, including, without limitation, Environmental Laws, and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted; or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

(b) Cause each Broker-Dealer Subsidiary to comply with all material rules and regulations of the SEC, the FINRA and any equivalent foreign self-regulatory body, in each case, applicable to it (including such rules and regulations dealing with net capital requirements), except where the failure to so comply therewith could not reasonably be expected to have a Material Adverse Effect.

6.09 Books and Records.

Cause itself and each of its Subsidiaries to (a) maintain proper books of record and account in conformity with GAAP; and (b) maintain such books of record and account in material conformity with all applicable requirements of any Governmental Authority having regulatory jurisdiction over such Loan Party or such Subsidiary, as the case may be.

6.10 Inspection Rights.

Permit representatives and independent contractors of the Administrative Agent to visit and inspect any of its and its Subsidiaries' properties, 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, subject to the proviso below, at the sole expense of the Administrative Agent and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower; provided, however, that when an Event of Default exists the Administrative Agent (or any of its representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and without advance notice. It is understood and agreed that the Administrative Agent shall, at the request of any Lender, share with such Lender information resulting from any inspection under this Section 6.10.

6.11 Use of Proceeds.

Cause itself and each of its Subsidiaries to use the proceeds of the Credit Extensions to (a) assist with the acquisition of Berkeley Point and/or the Borrower's joint venture investment with Cantor Fitzgerald, L.P. in a real estate-related finance and investment business, in each case which may include refinancing all or part of the Seller Financing related thereto, (b) refinancing existing Indebtedness and (c) finance working capital and other lawful corporate purposes; provided that in no event shall the proceeds of the Credit Extensions be used in contravention of any Law or of any Loan Document.

6.12 Guarantors.

Within thirty (30) days (or such later date as the Administrative Agent may agree in its sole discretion) after the date that any Subsidiary agrees to Guarantee any Indebtedness of the Borrower (other than the Obligations), either (a) cause such Subsidiary to become a Guarantor hereunder by (i) executing and delivering to the Administrative Agent a Joinder Agreement and (ii) delivering to the Administrative Agent such Organization Documents, resolutions and, if requested by the Administrative Agent, favorable opinions of counsel, all in form, content and scope reasonably satisfactory to the Administrative Agent or (b) provide a written certificate to the Administrative Agent acknowledging that all Indebtedness of such Subsidiary is subject to Section 7.03, specifying the amount of Indebtedness of such Subsidiary as of the date of the certificate and certifying that the Borrower is in compliance with Section 7.03 as of the date of the certificate.

6.13 Anti-Corruption Laws.

Cause itself and each of its Subsidiaries to conduct its businesses in material compliance with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and other similar anti-corruption legislation in other jurisdictions and maintain policies and procedures designed to promote and achieve compliance with such laws.

ARTICLE VII

NEGATIVE COVENANTS

Until the Facility Termination Date, no Loan Party shall, nor shall it permit any Subsidiary to, directly or indirectly:

7.01 Liens.

Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, other than the following:

(a) Liens existing on the Closing Date and listed on Schedule 7.01 and any renewals, extensions or replacements thereof; provided that the property covered thereby is not increased, and with respect to any replacement Lien, the amount of any Indebtedness secured by such Lien shall not be increased;

(b) Liens (other than Liens imposed under ERISA) for taxes, assessments or governmental charges or levies not yet due or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(c) Liens of carriers, warehousemen, mechanics, materialmen, workmen and repairmen or other like Liens arising in the ordinary course of business which are not overdue for a period of more than 30 days or which are being contested in good faith and by appropriate proceedings diligently conducted;

(d) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance, old age benefits, other social security obligations, taxes, assessments, statutory obligations and other similar charges, other than any Lien imposed by ERISA;

(e) (i) deposits to secure the performance of bids, tenders, trade contracts and leases (other than Indebtedness), statutory obligations, surety and appeal bonds, performance and return of money bonds, agreements with utilities and other obligations of a like nature incurred in the

ordinary course of business (including in each case deposits and/or Liens securing letters of credit issued in lieu of any such cash deposits), and (ii) other cash deposits required to be made in the ordinary course of business, including those made to secure health, safety and environmental obligations in the ordinary course of business;

(f) easements, rights-of-way, restrictions and other similar encumbrances affecting real property which, in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person;

(g) Liens securing judgments for the payment of money (or appeal or other surety bonds relating to such judgments), which judgments do not constitute an Event of Default under Section 8.01(h), and the pledge of assets for the purpose of securing an appeal, stay or discharge in the course of any such legal proceeding;

(h) Liens securing Indebtedness permitted under Section 7.03(c); provided that (i) such Liens do not at any time encumber any property other than the property financed by such Indebtedness and (ii) with respect to Indebtedness permitted by Section 7.03(c)(i) such Liens attach to such property concurrently with or within ninety days after the acquisition thereof;

(i) leases or subleases granted to others not interfering in any material respect with the business of any Loan Party or any Subsidiary;

(j) any interest of title of a lessor under, and Liens arising from UCC financing statements (or equivalent filings, registrations or agreements in foreign jurisdictions) relating to, leases permitted by this Agreement;

(k) normal and customary rights of setoff and other Liens upon deposits of cash and securities in favor of banks, brokers or other financial institutions;

(l) Liens of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection;

(m) any Lien existing on property (and the proceeds thereof) existing at the time of its acquisition and any modification, replacement, renewal or extension thereof; provided that such Lien was not created in contemplation of such acquisition;

(n) Liens incurred or assumed in the ordinary course on cash, marketable securities, real estate loans (including related purchase commitments) commodities or other financial products to secure securities lending transactions at Regulated Subsidiaries and other stock lending transactions, repurchase agreements, and other collateralized financing transactions at Subsidiaries;

(o) pledges of securities or commodity positions and exchange memberships in the ordinary course of business;

(p) deposits or securities with commodity or securities exchanges or clearing organizations, or with other exchanges or markets, in each case in the ordinary course of business;

(q) Liens in favor of customers of Broker-Dealer Subsidiaries arising in the ordinary course of business and Liens securing indebtedness of Broker-Dealer Subsidiaries in respect of customer funds in the ordinary course of business;

(r) Liens securing Indebtedness permitted under Section 7.03(i).

(s) Liens on cash and marketable securities granted by Berkeley Point in favor of Fannie Mae under the Delegated Underwriting and Servicing Program and/or Freddie Mac under the Targeted Affordable Housing Program in respect of loss sharing arrangements, in each case in the ordinary course of business; and

(t) other Liens securing Indebtedness or other obligations in an aggregate principal amount not to exceed at any one time, the difference of \$40,000,000 less any Indebtedness incurred pursuant to Section 7.03(j).

7.02 Investments.

Make any Investments, except:

(a) Investments existing on the Closing Date set forth on Schedule 7.02;

(b) Investments in Cash Equivalents;

(c) Investments made by Regulated Subsidiaries in the ordinary course of business;

(d) Investments in marketable securities, loans, loan servicing rights, commodities, forwards, futures, derivatives and other assets in connection with trading, underwriting, loan origination, loan servicing, selling to customers, acting as a broker or acting as a market intermediary, all in the ordinary course of business;

(e) loans or advances to employees as part of compensation programs, and which are by their nature forgivable by the Borrower or relevant Subsidiary or purchases or redemption of equity interests from employees, former employees or consultants;

(f) travel advances and other similar cash advances made to employees in the ordinary course of business;

(g) Investments in Persons that are engaged in an Eligible Line of Business;

(h) Investments in (or Acquisitions of) Subsidiaries and other Persons that are not wholly-owned or are not engaged in an Eligible Line of Business in an amount not to exceed, in the aggregate, at any one time outstanding (net of the proceeds received from the sale of such Investments) the greater of \$50,000,000 and 4.5% of Consolidated Net Worth;

(i) Cash AD Loans; and

(j) Permitted Acquisitions.

7.03 Subsidiary Indebtedness.

Create, incur, assume or suffer to exist any Indebtedness of any Subsidiary of a Loan Party (other than any Subsidiary that is a Guarantor), except:

(a) Indebtedness outstanding on the Closing Date set forth on Schedule 7.03, including the Seller Financing, if any, (and, with respect to any such Indebtedness, renewals, refinancings and extensions thereof); provided that (i) the amount of such Indebtedness is not increased above the original principal amount at the time of such refinancing, renewal or extension except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder and (ii) the terms relating to principal amount, amortization, maturity, collateral (if any) and subordination (if any), and other material terms taken as a whole, of any such refinancing, renewal or extension are no less favorable in any material respect to the Borrower and its Subsidiaries or the Lenders than the terms of the Indebtedness being refinanced, renewed or extended.

(b) obligations (contingent or otherwise) existing or arising under any Swap Contract, provided that such obligations are (or were) entered into by such Person for hedging purposes in the ordinary course of business, and not for purposes of speculation or taking a “market view”;

(c) (i) purchase money Indebtedness (including obligations in respect of capital leases and Synthetic Lease Obligations) hereafter incurred to finance the purchase of assets and renewals, refinancings and extensions thereof and (ii) Indebtedness hereafter incurred (including obligations in respect of capital leases and Synthetic Lease Obligations) that is secured by fixed assets and all renewals, refinancings and extensions thereof; provided that the aggregate outstanding principal amount of all such Indebtedness incurred pursuant to this clause (ii) shall not exceed \$60,000,000 at any one time outstanding;

(d) so long as the Borrower is in compliance with the financial covenants set forth in Section 7.11 on a pro forma basis after giving effect thereto, Indebtedness (i) of any Person that is merged or consolidated with and into any Subsidiary, (ii) of any Person that becomes a Subsidiary as a result of an Acquisition to the extent, in each case, that such Indebtedness was not incurred in connection with, or in contemplation of, such Person becoming a Subsidiary or (iii) consisting of customary performance based earn-out payments incurred in connection with an Acquisition;

(e) Indebtedness, including (i) securities lending transactions, at Regulated Subsidiaries and other stock lending transactions, repurchase agreements and other collateralized financing transactions at Subsidiaries, in each case (A) secured by marketable securities, real estate loans (including related purchase commitments) commodities or other financial products and (B) incurred in the ordinary course of business and (ii) borrowings by foreign Regulated Subsidiaries in connection with clearing or posting of margin requirements in the ordinary course of business;

(f) endorsement of items for deposit or collection of commercial paper received in the ordinary course of business;

(g) intercompany Indebtedness permitted under Section 7.02;

(h) obligations to purchase or redeem Equity Interests held by current or former partners, officers, directors, employees, consultants, service providers and their respective estates, spouses or former spouses in the ordinary course of business;

(i) Indebtedness, including Indebtedness incurred in connection with stock lending transactions, secured solely by shares of Intercontinental Exchange Inc. or NASDAQ held by the Borrower or its Subsidiaries at any time; provided that such Indebtedness shall be at customary advance rates and shall not exceed an aggregate principal amount equal to the underlying value of the shares securing such Indebtedness (the value of such shares to be determined as of the date such Indebtedness is incurred);

(j) Indebtedness of Newmark to the extent the proceeds thereof are used to pay outstanding amounts hereunder in accordance with Section 2.05 ;

(k) Indebtedness in the form of (i) any “bad boy guaranties” (including any related environmental indemnity) provided in connection with real estate financings of Affiliates and (ii) Guarantees by Berkeley Point to Fannie Mae under the Delegated Underwriting and Servicing Program and/or Freddie Mac under the Targeted Affordable Housing Program in respect of loss sharing arrangements, in each case in the ordinary course of business; and

(l) other unsecured Indebtedness in an aggregate principal amount not to exceed the difference of \$40,000,000 less, without duplication, any Liens incurred pursuant to Section 7.01(t).

7.04 Fundamental Changes.

Merge, dissolve, liquidate or consolidate with or into another Person, except that (a) the Borrower may merge or consolidate with any of its Subsidiaries; provided that the Borrower shall be the continuing or surviving Person, (b) any Subsidiary may be merged or consolidated with or into any other Subsidiary; provided that if such merger or consolidation is with respect to a Subsidiary that is a Loan Party, then either such Loan Party shall be the continuing or surviving Person or such surviving Person shall become a Loan Party promptly after such merger or consolidation, (c) the Borrower or any of its Subsidiaries may merge or consolidate with any other Person; provided that (i) if the Borrower is a party to such transaction, the Borrower is the continuing or surviving Person and (ii) if such Subsidiary is a Loan Party, then either such Loan Party shall be the continuing or surviving Person or such surviving Person shall become a Loan Party promptly after such merger or consolidation and (d) any Subsidiary (other than a Loan Party) may dissolve, liquidate or wind up its affairs at any time provided that such dissolution, liquidation or winding up, as applicable, could not reasonably be expected to have a Material Adverse Effect.

7.05 Dispositions.

Make any Disposition except:

(a) Dispositions consisting of sales of marketable securities, loans, loan servicing rights, commodities, forwards, futures, derivatives and other assets in connection with trading, market making activities, loan origination and securitization, structured products and other financial services activities, and real estate businesses, in each case in the ordinary course of business;

(b) Dispositions by (i) any Subsidiary of the Borrower to the Borrower or any other Subsidiary and (ii) the Borrower to any, direct or indirect, wholly-owned Subsidiary of the Borrower;

(c) Dispositions of shares of Intercontinental Exchange Inc. and NASDAQ held by the Borrower or its Subsidiaries at any time;

(d) Dispositions of Equity Interests of Newmark pursuant to an initial public offering which may result in Newmark becoming less than wholly-owned Subsidiaries of the Borrower and/or the issuance of additional Equity Interests of Newmark; and

(e) Dispositions (in addition to the Dispositions permitted by clauses (a), (b), (c) and (d) above) so long as the aggregate net book value of all of the assets sold or otherwise disposed of by the Loan Parties and their Subsidiaries in all such transactions shall not exceed, (i) during the period from the Closing Date until the date the 2017 annual financial statements are delivered pursuant to Section 6.01(a), 30% of Consolidated EBITDA calculated based on the annual financial statements of the Borrower as of December 31, 2016 less any Dispositions (other than Dispositions of the type permitted by clauses (a), (b), (c) and (d) above) made from January 1, 2017 through and including the Closing Date and (ii) thereafter, during each period commencing on the day following the date of delivery of annual financial statements pursuant to Section 6.01(a) and ending on the next date of delivery of annual financial statements pursuant to Section 6.01(a) in the following year, 30% of Consolidated EBITDA calculated based on the most recent annual financial statements delivered pursuant to Section 6.01(a).

7.06 Restricted Payments.

Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that:

(a) each Subsidiary may declare and make Restricted Payments to the Borrower or otherwise in accordance with its Organizational Documents;

(b) the Borrower and each of its Subsidiaries may declare and make dividend payments or other distributions payable solely in the Equity Interests of such Person; and

(c) the Borrower and each of its Subsidiaries may declare and make Restricted Payments if, immediately before and after giving effect thereto, (i) no Event of Default shall have occurred and be continuing and (ii) the Borrower is in compliance with the financial covenants set forth in Section 7.11 on a pro forma basis after giving effect thereto.

Notwithstanding the above, as long as any amounts are owed hereunder, the Borrower shall not be able to make any Restricted Payments described in clauses (a)-(c) above other than (A) regular common dividends consistent with past practices, (B) share repurchases, redemptions, exchanges and other payments in connection with compensation plans or arrangements or from current or former employees and partners or their estates or from directors, consultants or charities, in each case as intended to manage share count and consistent with historic practices, (C) Restricted Payments payable solely in Equity Interests, (D) share repurchases, redemptions, exchanges and other payments in amounts and at times corresponding generally to equity issuances pursuant to the Borrower's at-the-market controlled equity offering program (at the market shelf) and (E) other Restricted Payments in the ordinary course not to exceed, in the aggregate, \$25,000,000.

7.07 Change in Nature of Business.

Engage in any business or activity that is not an Eligible Line of Business; provided that the foregoing shall not apply to Investments permitted pursuant to Section 7.02(h).

7.08 Transactions with Affiliates.

Enter into or permit to exist any transaction or series of transactions with any Affiliate of such Person, that is less favorable than could be obtained in a similar transaction with a non-affiliate, other than (1) any transaction approved by the Borrower's audit committee, (2) any transaction with an Affiliate that is consolidated with the Borrower under GAAP, (3) management fees, employee benefit arrangements or indemnification programs pertaining to limited or general partners of the Borrower or any of its Subsidiaries entered into in the ordinary course of business or approved by the Borrower's board of directors, (4) transactions existing on the Closing Date and set forth on Schedule 7.08 and (5) any transaction that does not, individually, exceed \$500,000.

7.09 Burdensome Agreements.

Enter into, or permit to exist, any Contractual Obligation that with respect to any Subsidiary, encumbers or restricts the ability of any such Person to (i) make Restricted Payments to any Loan Party, (ii) pay any Indebtedness or other obligation owed to any Loan Party, (iii) make loans or advances to any Loan Party, (iv) transfer any of its property to the any Loan Party, (v) pledge its property pursuant to the Loan Documents or any renewals, refinancings, exchanges, refundings or extension thereof or (vi) act as a Loan Party pursuant to the Loan Documents or any renewals, refinancings, exchanges, refundings or extension thereof if otherwise required to be a Loan Party hereunder, except (in respect of any of the matters referred to in clauses (i) through (v) above) for (1) this Agreement and the other Loan Documents, (2) any document or instrument governing Indebtedness incurred pursuant to Section 7.03(e), provided that any such restriction contained therein relates only to the asset or assets constructed or acquired in connection therewith, (3) any Permitted Lien or any document or instrument governing any Permitted Lien; provided that any such restriction contained therein relates only to the asset or assets subject to such Permitted Lien, (4) customary restrictions and conditions contained in any agreement relating to the sale of any property permitted under Section 7.05 pending the consummation of such sale, (5) customary provisions in joint venture agreements and other similar agreements, (6) customary provisions restricting assignment contained in leases, subleases, licenses and other agreements and (7) any agreement or other instrument of a Person acquired by a Loan Party or any Subsidiary which was in existence at the time of such Acquisition (but not created in contemplation thereof or to provide all or any portion of the funds or credit support utilized to consummate such Acquisition), 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.

7.10 Use of Proceeds.

Use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose, except, in the case of any Regulated Subsidiary, in compliance with Regulation U, T and X of the FRB.

7.11 Financial Covenants.

Permit:

(a) Consolidated Leverage Ratio. The Consolidated Leverage Ratio, (i) as of the last day of the fiscal quarter ending September 30, 2017, to be greater than 3.50:1.00, (ii) as of the last day of the fiscal quarter ending December 31, 2017, to be greater than 3.375:1.00 and (iii) as of the last day of the fiscal quarter ending March 31, 2018 and as of the last day of any fiscal quarter of the Borrower thereafter, to be greater than 3.25:1.00.

(b) Consolidated Interest Coverage Ratio. The Consolidated Interest Coverage Ratio, as of the last day of any fiscal quarter of the Borrower, to be less than 4.00:1.00.

(c) Consolidated Net Worth. Consolidated Net Worth at any time to be less than the sum of (i) \$580,000,000 plus (ii) an amount equal to (x) the Step Up Percentage multiplied by (y) the Net Cash Proceeds received by the Borrower or its Subsidiaries from the issuance and sale of Equity Interests of the Borrower or any of its Subsidiaries after the Closing Date, other than Equity Issuances pursuant to the Borrower's at-the-market controlled equity offering program (at the market shelf) intended to offset share repurchases, redemptions, exchanges and other payments in connection with compensation plans or arrangements or from current or former employees and partners or their estates or from directors, consultants or charities, in each case consistent with historic practices. For purposes of this Section 7.11(c), the Step Up Percentage shall equal 75%, with respect to the first \$400 million in Net Cash Proceeds received, and 50% with respect to any Net Cash Proceeds received in excess of \$400 million.

(d) Net Excess Capital. Net Excess Capital with respect to all Broker-Dealer Subsidiaries at any time to be less than \$185,000,000.

7.12 Fiscal Year.

Permit the Borrower to change its fiscal year from its present ending on December 31 of each year or permit any Subsidiary to change its fiscal year except as necessary to align its fiscal year with the Borrower.

7.13 Sanctions.

Use any Credit Extension or the proceeds of any Credit Extension, or lend, contribute or otherwise make available such Credit Extension or the proceeds of any Credit Extension to any Person, to fund any activities of or business with any Person, or in any Designated Jurisdiction, that, at the time of such funding, is the subject of Sanctions, or in any other manner that will result in a violation by any Person (including any Person participating in the transaction, whether as Lender, an Arranger, Administrative Agent or otherwise) of Sanctions.

7.14 Anti-Corruption Laws.

Use the proceeds of any Credit Extension for any purpose which would breach the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 or other similar anti-corruption legislation in other jurisdictions.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

8.01 Events of Default.

Any of the following shall constitute an Event of Default:

(a) Non-Payment. Any Loan Party fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan, or (ii) within three days after the same becomes due, any interest on any Loan, or any fee due hereunder, or (iii) within five days after the same becomes due, any other amount payable hereunder or under any other Loan Document; or

(b) Specific Covenants. Any Loan Party fails to perform or observe any term, covenant or agreement contained in (i) Section 6.01 or 6.02 and such failure continues for five Business Days or (ii) any of Section 6.03(a); solely with respect to the Loan Parties, 6.05(a), 6.10 or 6.11 or Article VII; or

(c) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty days after the earlier of (i) the date on which such failure shall first become known to a Responsible Officer of the Borrower or (ii) written notice thereof is given to a Responsible Officer of the Borrower by the Administrative Agent; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of a Loan Party herein, in any other Loan Document, or in any document delivered in connection herewith or therewith shall be untrue in any material respect (other than those representations and warranties that are qualified by materiality or Material Adverse Effect, in which case in any respect) when made or deemed made; or

(e) Cross-Default. (i) Any Loan Party or any Subsidiary of a Loan Party with a net worth in excess of \$10,000,000 (A) after giving effect to any grace period applicable thereto (including any cure period, forbearance or other extension, amendment or waiver), fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness or Guarantee of such Indebtedness (other than Indebtedness hereunder and Indebtedness under Swap Contracts) having an aggregate principal amount (including drawn and outstanding amounts owing to all creditors under any combined or syndicated credit arrangement) of more than the Threshold Amount, or (B) after giving effect to any grace period applicable thereto (including any cure period, forbearance or other extension, amendment or waiver), fails to observe or perform any other agreement or condition relating to any such Indebtedness or Guarantee of such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such Guarantee (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, or such Guarantee to become payable or cash collateral in respect thereof to be demanded; (ii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which any Loan Party or any Subsidiary is the Defaulting Party (as defined in such Swap Contract) or (B) any Termination Event (as so defined) under such Swap Contract as to which any Loan Party or any Subsidiary is an Affected Party (as

so defined) and, in either event, after giving effect to any grace period applicable thereto (including any cure period, forbearance or other extension, amendment or waiver), the Swap Termination Value owed by such Loan Party or such Subsidiary as a result thereof is greater than the Threshold Amount or (iii) any Event of Default occurs and is continuing under the Revolving Credit Facility (as defined therein); or

(f) Insolvency Proceedings, Etc. Any Loan Party or any Subsidiary of a Loan Party with a net worth in excess of \$10,000,000 institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for sixty calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for sixty calendar days, or an order for relief is entered in any such proceeding; or

(g) Inability to Pay Debts; Attachment. (i) Any Loan Party or any Subsidiary of a Loan Party with a net worth in excess of \$10,000,000 becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Person and is not released, vacated or fully bonded within thirty days after its issue or levy; or

(h) Judgments. There is entered against any Loan Party or any Subsidiary of a Loan Party with a net worth in excess of \$10,000,000 one or more final judgments or orders for the payment of money in an aggregate amount (as to all such judgments or orders) exceeding the Threshold Amount (to the extent not covered by independent third-party insurance as to which the insurer has been notified of the claim and does not dispute coverage), and, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) there is a period of thirty (30) consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect; or

(i) ERISA. (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or would reasonably be expected to result in liability of any Loan Party or any Subsidiary under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of the Threshold Amount; provided, however, that, for purposes of determining whether withdrawal liability associated with a Multiemployer Plan is in excess of the Threshold Amount, only the maximum annual withdrawal liability payment amount pursuant to Section 4219(c) of ERISA shall be taken into account, as opposed to the total aggregate withdrawal liability assessed, or (ii) any Loan Party, any Subsidiary 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 in excess of the Threshold Amount; or

(j) Invalidity of Loan Documents. Any provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all the Obligations, ceases to be in full force and effect; or any Loan Party or any other Person contests in any manner the validity or enforceability of any provision of any Loan Document; or any Loan Party denies that it has any or further liability or obligation under any provision of any Loan Document, or purports to revoke, terminate or rescind any Loan Document.

8.02 Remedies Upon Event of Default.

If any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders, take any or all of the following actions:

(a) declare the commitment of each Lender to make Loans to be terminated, whereupon such commitments and obligation shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower;

(c) exercise on behalf of itself and the Lenders all rights and remedies available to it, the Lenders under the Loan Documents or applicable Law or at equity;

provided, however, that upon the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code of the United States, the obligation of each Lender to make Loans shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, without further act of the Administrative Agent or any Lender.

8.03 Application of Funds.

After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable as set forth in the proviso to Section 8.02), any amounts received on account of the Obligations shall, subject to the provisions of Section 2.15, be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article III) payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders (including fees, charges and disbursements of counsel to the respective Lenders and amounts payable under Article III), ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Loans, ratably among the Lenders in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans, ratably among the Lenders in proportion to the respective amounts described in this clause Fourth payable to them; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by Law.

ARTICLE IX

ADMINISTRATIVE AGENT

9.01 Appointment and Authority.

Each of the Lenders hereby irrevocably appoints Bank of America 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 Lenders, and no Loan Party shall have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term “agent” herein or in any other Loan Documents (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. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

9.02 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 as any other Lender and may exercise the same as though it were not the Administrative Agent and the term “Lender” or “Lenders” 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 any Loan Party 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 to provide notice to or consent of the Lenders with respect thereto.

9.03 Exculpatory Provisions.

The Administrative Agent 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, the Administrative Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a 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 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

applicable 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; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty or responsibility to disclose, and shall not be liable for the failure to disclose, any information relating to any Loan Party or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

Neither the Administrative Agent nor any of its Related Parties shall be liable for any action taken or not taken by the Administrative Agent under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby or thereby (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 Sections 11.01 and 8.02) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. Any such action taken or failure to act pursuant to the foregoing shall be binding on all Lenders. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given in writing to the Administrative Agent by the Borrower or a Lender.

Neither the Administrative Agent nor any of its Related Parties have any duty or obligation to any Lender or participant or any other Person to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan 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, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document and (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

9.04 Reliance by Administrative Agent.

The Administrative Agent shall be entitled to rely upon, and shall be fully protected in relying and shall not incur any liability for relying upon, any notice, request, certificate, communication, 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. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall be fully protected in relying and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender prior to the making of such Loan. The Administrative Agent may consult with legal counsel (who may be counsel for the Loan Parties), 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.

9.05 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 non appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

9.06 Resignation of Administrative Agent.

(a) The Administrative Agent may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with and (so long as there is no continuing Event of Default) with the consent of the Borrower, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders (and, if applicable, the Borrower) and shall have accepted such appointment within thirty days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the “Resignation Effective Date”), then the retiring Administrative Agent may (but shall not be obligated to) on behalf of the Lenders, appoint a successor Administrative Agent meeting the qualifications set forth above, provided that in no event shall any such successor Administrative Agent be a Defaulting Lender. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by applicable Law, by notice in writing to the Borrower and such Person remove such Person as Administrative Agent and, in consultation with the Borrower, appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty days (or such earlier day as shall be agreed by the Required Lenders) (the “Removal Effective Date”), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(c) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (i) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents and (ii) except for any indemnity payments or other amounts then owed to the retiring or removed Administrative Agent, 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 directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided for above. 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 removed) Administrative Agent (other than as provided in Section 3.01(g) and other than any rights to indemnity payments or other amounts owed to the retiring or removed Administrative Agent as of the Resignation Effective Date or the Removal Effective Date, as applicable), and the retiring or removed 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 removed Administrative Agent's resignation or removal hereunder and under the other Loan Documents, the provisions of this Article and Section 11.04 shall continue in effect for the benefit of such retiring or removed 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 removed Administrative Agent was acting as Administrative Agent.

9.07 Non-Reliance on Administrative Agent and Other Lenders.

Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties 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 also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, 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.

9.08 No Other Duties; Etc.

Anything herein to the contrary notwithstanding, none of the bookrunners, arrangers, syndication agents, documentation agents or co-agents shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent or as a Lender hereunder.

9.09 Administrative Agent May File Proofs of Claim.

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 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, 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 and all other 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 and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Sections 2.09 and 11.04) 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 to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.09 and 11.04.

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 plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

9.10 Guaranty Matters.

Each of the Lenders irrevocably authorize the Administrative Agent to release any Guarantor from its obligations under the Guaranty if (i) the Borrower requests such release, (ii) such Guarantor is not required to Guarantee the Obligations pursuant to Section 6.12 and (iii) no Default exists or would result from such release.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release any Guarantor from its obligations under the Guaranty, pursuant to this Section 9.10.

ARTICLE X

GUARANTY

10.01 The Guaranty.

Each of the Guarantors hereby jointly and severally guarantees to each Lender and each other holder of Obligations as hereinafter provided, as primary obligor and not as surety, the prompt payment of the Obligations in full when due (whether at stated maturity, by acceleration or otherwise) strictly in accordance with the terms thereof. The Guarantors hereby further agree that if any of the Obligations are not paid in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise), the Guarantors will, jointly and severally, promptly pay the same, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Obligations, the same will be promptly paid in full when due (whether at extended maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise) in accordance with the terms of such extension or renewal.

Notwithstanding any provision to the contrary contained herein or in any other of the Loan Documents or the other documents relating to the Obligations, the obligations of each Guarantor under this Agreement and the other Loan Documents shall not exceed an aggregate amount equal to the largest amount that would not render such obligations subject to avoidance under applicable Debtor Relief Laws.

10.02 Obligations Unconditional.

The obligations of the Guarantors under Section 10.01 are joint and several, absolute and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of any of the Loan Documents or other documents relating to the Obligations, or any substitution, release, impairment or exchange of any other guarantee of or security for any of the Obligations, and, to the fullest extent permitted by applicable Law, irrespective of any other circumstance whatsoever which might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, it being the intent of this Section 10.02 that the obligations of the Guarantors hereunder shall be absolute and unconditional under any and all circumstances. Each Guarantor agrees that such Guarantor shall have no right of subrogation,

indemnity, reimbursement or contribution against the Borrower or any other Loan Party for amounts paid under this Article X until such time as the Obligations have been paid in full and the Commitments have expired or terminated. Without limiting the generality of the foregoing, it is agreed that, to the fullest extent permitted by Law, the occurrence of any one or more of the following shall not alter or impair the liability of any Guarantor hereunder, which shall remain absolute and unconditional as described above:

(a) at any time or from time to time, without notice to any Guarantor, the time for any performance of or compliance with any of the Obligations shall be extended, or such performance or compliance shall be waived;

(b) any of the acts mentioned in any of the provisions of any of the Loan Documents or other documents relating to the Obligations shall be done or omitted;

(c) the maturity of any of the Obligations shall be accelerated, or any of the Obligations shall be modified, supplemented or amended in any respect, or any right under any of the Loan Documents or other documents relating to the Obligations shall be waived or any other guarantee of any of the Obligations or any security therefor shall be released, impaired or exchanged in whole or in part or otherwise dealt with; or

(d) any of the Obligations shall be determined to be void or voidable (including for the benefit of any creditor of any Guarantor) or shall be subordinated to the claims of any Person (including any creditor of any Guarantor).

With respect to its obligations hereunder, each Guarantor hereby expressly waives diligence, presentment, demand of payment, protest and all notices whatsoever, and any requirement that the Administrative Agent or any other holder of the Obligations exhaust any right, power or remedy or proceed against any Person under any of the Loan Documents or any other document relating to the Obligations, or against any other Person under any other guarantee of, or security for, any of the Obligations.

10.03 Reinstatement.

The obligations of each Guarantor under this Article X shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of any Person in respect of the Obligations is rescinded or must be otherwise restored by any holder of any of the Obligations, whether as a result of any Debtor Relief Law or otherwise, and each Guarantor agrees that it will indemnify the Administrative Agent and each other holder of the Obligations on demand for all reasonable costs and expenses (including the fees, charges and disbursements of counsel) incurred by the Administrative Agent or such holder of the Obligations in connection with such rescission or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any Debtor Relief Law.

10.04 Certain Additional Waivers.

Each Guarantor agrees that such Guarantor shall have no right of recourse to security for the Obligations, except through the exercise of rights of subrogation pursuant to Section 10.02 and through the exercise of rights of contribution pursuant to Section 10.06.

10.05 Remedies.

The Guarantors agree that, to the fullest extent permitted by Law, as between the Guarantors, on the one hand, and the Administrative Agent and the other holders of the Obligations, on the other hand, the Obligations may be declared to be forthwith due and payable as specified in Section 10.02 (and shall be deemed to have become automatically due and payable in the circumstances specified in Section 10.02.) for purposes of Section 10.01 notwithstanding any stay, injunction or other prohibition preventing such declaration (or preventing the Obligations from becoming automatically due and payable) as against any other Person and that, in the event of such declaration (or the Obligations being deemed to have become automatically due and payable), the Obligations (whether or not due and payable by any other Person) shall forthwith become due and payable by the Guarantors for purposes of Section 10.01.

10.06 Rights of Contribution.

The Guarantors hereby agree as among themselves that, if any Guarantor shall make an Excess Payment (as defined below), such Guarantor shall have a right of contribution from each other Guarantor in an amount equal to such other Guarantor's Contribution Share (as defined below) of such Excess Payment. The payment obligations of any Guarantor under this Section 10.06 shall be subordinate and subject in right of payment to the Obligations until such time as the Obligations have been paid-in-full and the Commitments have terminated, and none of the Guarantors shall exercise any right or remedy under this Section 10.06 against any other Guarantor until such Obligations have been paid-in-full and the Commitments have terminated. For purposes of this Section 10.06, (a) "Excess Payment" shall mean the amount paid by any Guarantor in excess of its Ratable Share of any Obligations; (b) "Ratable Share" shall mean, for any Guarantor in respect of any payment of Obligations, the ratio (expressed as a percentage) as of the date of such payment of Obligations of (i) the amount by which the aggregate present fair salable value of all of its assets and properties exceeds the amount of all debts and liabilities of such Guarantor (including contingent, subordinated, unmatured, and unliquidated liabilities, but excluding the obligations of such Guarantor hereunder) to (ii) the amount by which the aggregate present fair salable value of all assets and other properties of all of the Loan Parties exceeds the amount of all of the debts and liabilities (including contingent, subordinated, unmatured, and unliquidated liabilities, but excluding the obligations of the Loan Parties hereunder) of the Loan Parties; provided, however, that, for purposes of calculating the Ratable Shares of the Guarantors in respect of any payment of Obligations, any Guarantor that became a Guarantor subsequent to the date of any such payment shall be deemed to have been a Guarantor on the date of such payment and the financial information for such Guarantor as of the date such Guarantor became a Guarantor shall be utilized for such Guarantor in connection with such payment; and (c) "Contribution Share" shall mean, for any Guarantor in respect of any Excess Payment made by any other Guarantor, the ratio (expressed as a percentage) as of the date of such Excess Payment of (i) the amount by which the aggregate present fair salable value of all of its assets and properties exceeds the amount of all debts and liabilities of such Guarantor (including contingent, subordinated, unmatured, and unliquidated liabilities, but excluding the obligations of such Guarantor hereunder) to (ii) the amount by which the aggregate present fair salable value of all assets and other properties of the Loan Parties other than the maker of such Excess Payment exceeds the amount of all of the debts and liabilities (including contingent, subordinated, unmatured, and unliquidated liabilities, but excluding the obligations of the Loan Parties) of the Loan Parties other than the maker of such Excess Payment; provided, however, that, for purposes of calculating the Contribution Shares of the Guarantors in respect of any Excess Payment, any Guarantor that became a Guarantor subsequent to the date of any such Excess Payment shall be deemed to have been a Guarantor on the date of such Excess Payment and the financial information for such Guarantor as of the date such Guarantor became a Guarantor shall be utilized for such Guarantor in connection with such Excess Payment. This Section 10.06 shall not be deemed to affect any right of subrogation, indemnity, reimbursement or contribution that any Guarantor may have under Law against the Borrower in respect of any payment of Obligations.

10.07 Guarantee of Payment; Continuing Guarantee.

The guarantee in this Article X is a guaranty of payment and not of collection, is a continuing guarantee, and shall apply to the Obligations whenever arising.

10.08 Appointment of Borrower.

Each of the Guarantors 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 Guarantor as the Borrower deems appropriate in its sole discretion and each Guarantor 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 or a Lender to the Borrower shall be deemed delivered to each Guarantor and (c) the Administrative Agent or 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 Guarantors.

ARTICLE XI

MISCELLANEOUS

11.01 Amendments, Etc.

No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by any Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and the Borrower or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that

(a) no such amendment, waiver or consent shall:

(i) extend or increase the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.02) without the written consent of such Lender (it being understood and agreed that a waiver of any condition precedent set forth in Section 4.02 or of any Default or a mandatory reduction in Commitments is not considered an extension or increase in Commitments of any Lender);

(ii) postpone any date fixed by this Agreement or any other Loan Document for any payment of principal, interest, fees or other amounts due to the Lenders (or any of them) or any scheduled reduction of the Commitments hereunder or under any other Loan Document without the written consent of each Lender entitled to receive such payment or whose Commitments are to be reduced;

(iii) reduce the principal of, or the rate of interest specified herein on, any Loan, or any fees (other than pursuant to a fee letter separate from this Agreement in which all the Lenders are not a party thereto) or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender entitled to receive such amount; provided, however, that only the consent of the Required Lenders shall be necessary (A) to amend the definition of “Default Rate” or to waive any obligation of the Borrower to pay interest at the Default Rate or (B) to amend any financial covenant hereunder (or any defined term used therein) even if the effect of such amendment would be to reduce the rate of interest on any Loan or to reduce any fee payable hereunder;

(iv) change Section 8.03 or Section 2.13 in a manner that would alter the pro rata sharing of payments required thereby without the written consent of each Lender directly affected thereby;

(v) change any provision of this Section 11.01(a) or the definition of "Required Lenders" without the written consent of each Lender directly affected thereby;

(vi) release the Borrower without the consent of each Lender, or, except in connection with a transaction permitted under Section 7.04 or Section 7.05, all or substantially all of the value of the Guaranty without the written consent of each Lender whose Obligations are guaranteed thereby, except to the extent such release is permitted pursuant to Section 9.10 (in which case such release may be made by the Administrative Agent acting alone); or

(b) unless also signed by the Administrative Agent, no amendment, waiver or consent shall affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document;

provided, further, that notwithstanding anything to the contrary herein, (i) each Lender is entitled to vote as such Lender sees fit on any bankruptcy reorganization plan that affects the Loans, and each Lender acknowledges that the provisions of Section 1126(c) of the Bankruptcy Code of the United States supersedes the unanimous consent provisions set forth herein and (ii) the Required Lenders shall determine whether or not to allow a Loan Party to use cash collateral in the context of a bankruptcy or insolvency proceeding and such determination shall be binding on all of the Lenders.

No Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of such 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 by its terms affects such Defaulting Lender disproportionately adversely relative to other affected Lenders shall require the consent of such Defaulting Lender.

Notwithstanding any provision herein to the contrary the Administrative Agent and the Borrower may amend, modify or supplement this Agreement or any other Loan Document to cure or correct administrative errors or omissions, any ambiguity, omission, defect or inconsistency or to effect administrative changes, and such amendment shall become effective without any further consent of any other party to such Loan Document so long as (i) such amendment, modification or supplement does not adversely affect the rights of any Lender or other holder of Obligations in any material respect and (ii) 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.

11.02 Notices; Effectiveness; Electronic Communications.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), 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 facsimile as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to any Loan Party or the Administrative Agent, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 11.02; and

(ii) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified 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 material non-public information relating to the Borrower).

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 hereunder may be delivered or furnished by electronic communication (including e mail, FpML messaging, and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender pursuant to Article II if such Lender has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may each, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

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) 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; provided that, for both clauses (i) and (ii), if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(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 or any of its Related Parties (collectively, the “Agent Parties”) have any liability to the Borrower, any Lender or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of any Loan Party’s or the Administrative Agent’s transmission of Borrower Materials or notices through the Platform, any other electronic platform or electronic messaging service, or through the Internet.

(d) Change of Address, Etc. Each of the Borrower and the Administrative Agent may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the Borrower and the Administrative Agent. 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, facsimile number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the “Private Side Information” or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender’s compliance procedures and applicable Law, including United States Federal and state securities Laws, to make reference to Borrower Materials that are not made available through the “Public Side Information” portion of the Platform and that may contain material non-public information with respect to the Borrower or its securities for purposes of United States Federal or state securities Laws.

(e) Reliance by Administrative Agent and Lenders. The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic Loan Notices) purportedly given by or on behalf of any Loan Party 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. The Loan Parties shall indemnify the Administrative Agent, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of a Loan Party. 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.

11.03 No Waiver; Cumulative Remedies; Enforcement.

No failure by any Lender 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 or under any other Loan Document (including the imposition of the Default Rate) 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 Section 8.02 for the benefit of all the Lenders; 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) any Lender from exercising setoff rights in accordance with Section 11.08 (subject to the terms of Section 2.13), or (c) 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 Section 8.02 and (ii) in addition to the matters set forth in clauses (b) and (c) of the preceding proviso and subject to Section 2.13, 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.

11.04 Expenses; Indemnity; Damage Waiver.

(a) Costs and Expenses. The Loan Parties shall pay (i) all reasonable and documented out of pocket expenses incurred by the Administrative Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for the Administrative Agent) in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated) and (ii) all out of pocket expenses incurred by the Administrative Agent or any Lender (including the fees, charges and disbursements of any counsel for the Administrative Agent or any Lender), in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with the Loans made hereunder, including all such out of pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans.

(b) Indemnification by the Loan Parties. The Loan Parties shall indemnify the Administrative Agent (and any sub-agent thereof) and each Lender, 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 related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless each Indemnitee from all fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any Person (including any Loan Party) arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder, the consummation of the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents (including in respect of any matters addressed in Section 3.01), (ii) any Loan or the use or proposed use of the proceeds therefrom, (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by a Loan Party or any of its Subsidiaries, or any Environmental Liability related in any way to a Loan Party or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by any Loan Party, 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 or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee, (y) result from a claim brought by any Loan Party against an Indemnitee for breach of such Indemnitee's obligations hereunder or under any other Loan Document, if such Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction or (z) arise from a dispute solely among Indemnitees (other than the Administrative Agent or any Arranger acting in its capacity as such) at a time when the Loan Parties have not breached its obligations hereunder in any material respect and does not arise out of an act or omission by any Loan Party. Without limiting the provisions of Section 3.01(c), this Section 11.04(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) Reimbursement by Lenders. To the extent that the Loan Parties for any reason fail to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by them to the Administrative Agent (or any sub-agent thereof) or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent) 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 based on each Lender's share of the Total Credit Exposures of all Lenders at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender), such payment to be made severally among them based on such Lenders' Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), provided, further 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 such sub-agent) in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.12(d).

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable Law, no party hereto shall assert, and each such party hereby waives, and acknowledges that no other Person shall have, any claim on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof; provided that nothing contained in this clause (d) shall relieve the Loan Parties of any obligation it may have to indemnify an Indemnitee to against special, indirect, consequential or punitive damages asserted against such Indemnitee by a third party claim. 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 in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(e) Payments. All amounts due under this Section shall be payable not later than ten Business Days after demand therefor.

(f) Survival. The agreements in this Section and the indemnity provisions of Section 11.02(e) shall survive the resignation of the Administrative Agent, the replacement of any Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all the other Obligations.

11.05 Payments Set Aside.

To the extent that any payment by or on behalf of any Loan Party is made to the Administrative Agent or any Lender, or the Administrative Agent or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

11.06 Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement and the other Loan Documents shall be binding upon and inure to the benefit of the parties hereto and thereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder or thereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (e) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). 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, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement and the other Loan Documents (including all or a portion of its Commitment and the Loans at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and the related Loans at the time owing to it or contemporaneous assignments to related Approved Funds (determined after giving effect to such Assignments) that equal at least the amount specified in subsection (b)(i)(B) of this Section in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if “Trade Date” is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than \$5,000,000 unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender’s Loans and Commitments, and rights and obligations with respect thereto, assigned;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within ten (10) Business Days after having received notice thereof;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of any unfunded Term Loan Commitment if such assignment is to a Person that is not a Lender with a Commitment subject to such assignment, an Affiliate of such Lender or an Approved Fund with respect to such Lender; and

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of \$3,500; provided, however, that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons. No such assignment shall be made to (A) the Borrower or any of the Borrower’s Affiliates or Subsidiaries, (B) any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B), (C) a natural Person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural Person) or (D) any Disqualified Institution.

(vi) Certain Additional Payments. 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 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 applicable 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.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement 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 Sections 3.01, 3.04, 3.05 and 11.04 with respect to facts and circumstances occurring prior to the effective date of such assignment); provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a 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. Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection 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 subsection (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as an agent of the Borrower (and such agency being solely for tax purposes), shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it (or the equivalent thereof in electronic form) and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans 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 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. The Register shall be available for inspection by the Borrower and any Lender at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural Person (or a holding company, investment vehicle or trust for, or owned and operated for the

primary benefit of a natural Person), a Disqualified Institution, a Defaulting Lender or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 11.04(c) without regard to the existence of any participation.

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 to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in Section 11.01(a) that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section (it being understood that the documentation required under Section 3.01(e) shall be delivered to the Lender who sells the participation) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (A) agrees to be subject to the provisions of Sections 3.06 and 11.13 as if it were an assignee under paragraph (b) of this Section and (B) shall not be entitled to receive any greater payment under Sections 3.01 or 3.04, with respect to any participation, than the Lender from whom it acquired the applicable participation would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 3.06 with respect to any Participant. To the extent permitted by Law, each Participant also shall be entitled to the benefits of Section 11.08 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.13 as though it were a Lender. 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 stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

11.07 Treatment of Certain Information: Confidentiality.

Each of the Administrative Agent and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable Laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payments hereunder, (g) on a confidential basis to (i) any rating agency in connection with rating any Loan Party or its Subsidiaries or the credit facilities provided hereunder or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers or other market identifiers with respect to the credit facilities provided hereunder, (h) with the consent of the Borrower or (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower. In addition, the Administrative Agent and the Lenders may disclose the existence of this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Agents and the Lenders in connection with the administration of this Agreement (including information about this Agreement that is customarily provided to such parties), the other Loan Documents, and the Commitments.

For purposes of this Section, “Information” means all information received from a Loan Party or any Subsidiary relating to the Loan Parties or any Subsidiary or any of their respective businesses, other than any such information that is available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by such Loan Party or any Subsidiary, provided that, in the case of information received from a Loan Party or any Subsidiary after the Closing Date, such information is clearly identified at the time of delivery as confidential. 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.

Each of the Administrative Agent and the Lenders acknowledges that (a) the Information may include material non-public information concerning a Loan Party or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Law, including United States Federal and state securities Laws.

11.08 Rights of Setoff.

If an Event of Default shall have occurred and be continuing, each Lender and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency)

at any time owing by such Lender or any such Affiliate to or for the credit or the account of any Loan Party against any and all of the obligations of such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender or their respective Affiliates, irrespective of whether or not such Lender or such Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of such Loan Party may be contingent or unmatured or are owed to a branch or office or Affiliate of such Lender 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 2.15 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 Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender or their respective Affiliates may have. Each Lender agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

11.09 Interest Rate Limitation.

Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the “Maximum Rate”). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

11.10 Counterparts; Integration; Effectiveness.

This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents and any separate letter agreements with respect to fees payable to the Administrative Agent 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. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic imaging means (e.g., “pdf” or “tif”) shall be effective as delivery of a manually executed counterpart of this Agreement.

11.11 Survival of Representations and Warranties.

All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be

relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied.

11.12 Severability.

If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 11.12, 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, then such provisions shall be deemed to be in effect only to the extent not so limited.

11.13 Replacement of Lenders.

If the Borrower is entitled to replace a Lender pursuant to the provisions of Section 3.06, or if any Lender is a Defaulting Lender or a Non-Consenting 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, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 11.06), all of its interests, rights (other than its existing rights to payments pursuant to Sections 3.01 and 3.04) and obligations under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

(a) the Borrower shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 11.06(b);

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) 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);

(c) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter;

(d) such assignment does not conflict with applicable Laws; and

(e) in the case of an assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

11.14 Governing Law; Jurisdiction; Etc.

(a) GOVERNING LAW. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) SUBMISSION TO JURISDICTION. EACH LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT IT WILL NOT COMMENCE ANY ACTION, LITIGATION OR PROCEEDING OF ANY KIND OR DESCRIPTION, WHETHER IN LAW OR EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, AGAINST THE ADMINISTRATIVE AGENT, ANY LENDER OR ANY RELATED PARTY OF THE FOREGOING IN ANY WAY RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS RELATING HERETO OR THERETO, IN ANY FORUM OTHER THAN THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION, LITIGATION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION, LITIGATION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT OR ANY LENDER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST ANY LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) WAIVER OF VENUE. EACH LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 11.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

11.15 Waiver of Jury Trial.

EACH PARTY HERETO HEREBY IRREVOCABLY 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 THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON 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 AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

11.16 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), each of the Loan Parties acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent, the Arrangers and the Lenders are arm's-length commercial transactions between the Loan Parties and their Affiliates, on the one hand, and the Administrative Agent, the Arrangers and the Lenders, on the other hand, (B) each of the Loan Parties has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) each of the Loan Parties 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) the Administrative Agent, the Arrangers and the Lenders each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Loan Parties or any of their respective Affiliates, or any other Person and (B) neither the Administrative Agent, any Arranger nor any Lender has any obligation to the Loan Parties or any of their respective 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 Arrangers, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Loan Parties and their respective Affiliates, and neither the Administrative Agent, any Arranger nor any Lender has any obligation to disclose any of such interests to the Loan Parties and their respective Affiliates. To the fullest extent permitted by Law, each of the Loan Parties hereby waives and releases any claims that it may have against the Administrative Agent, any Arranger or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

11.17 Electronic Execution of Assignments and Certain Other Documents.

The words “delivery,” “execute,” “execution,” “signed,” “signature,” and words of like import in any Loan Document or any other document executed in connection herewith 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, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable 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; provided that notwithstanding anything contained herein to the contrary neither the Administrative Agent nor any Lender is under any obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by the Administrative Agent or such Lender pursuant to procedures approved by it and provided further without limiting the foregoing, upon the request of any party, any electronic signature shall be promptly followed by such manually executed counterpart.

11.18 USA PATRIOT Act Notice.

Each Lender that is subject to the Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Loan Parties that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “Act”), it is required to obtain, verify and record information that identifies the Loan Parties, which information includes the name and address of the Loan Parties and other information that will allow such Lender or the Administrative Agent, as applicable, to identify the Loan Parties in accordance with the Act. The Loan Parties shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable “know your customer” and anti-money laundering rules and regulations, including the Act.

11.19 Acknowledgment and Consent to Bail-In of EEA Financial Institutions.

Notwithstanding anything to the contrary in any Credit Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an EEA Financial Institution arising under any Credit Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender that is an EEA Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Credit Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

BORROWER:

BGC PARTNERS, INC.,
a Delaware corporation

By: /s/ Steven R. McMurray
Name: Steven R. McMurray
Title: Chief Financial Officer

BGC PARTNERS, INC.
TERM LOAN CREDIT AGREEMENT

ADMINISTRATIVE
AGENT:

BANK OF AMERICA, N.A.,
as Administrative Agent

By: /s/ Paley Chen

Name: Paley Chen

Title: Vice President

BGC PARTNERS, INC.
TERM LOAN CREDIT AGREEMENT

LENDERS:

BANK OF AMERICA, N.A.,

By: /s/ Sherman Wong

Name: Sherman Wong

Title: Director

BGC PARTNERS, INC.
TERM LOAN CREDIT AGREEMENT

CITIBANK, N.A.,

By: /s/ Ciraran Small _____

Name: Ciraran Small

Title: Vice President

BGC PARTNERS, INC.
TERM LOAN CREDIT AGREEMENT

GOLDMAN SACHS BANK USA,

By: /s/ Ryan Durkin

Name: Ryan Durkin

Title: Authorized Signatory

BGC PARTNERS, INC.
TERM LOAN CREDIT AGREEMENT

CAPITAL ONE, NATIONAL ASSOCIATION,

By: /s/ Sean C. Horridge

Name: Sean C. Horridge

Title: Vice President

BGC PARTNERS, INC.
TERM LOAN CREDIT AGREEMENT

PNC BANK, NATIONAL ASSOCIATION,

By: /s/ Alaa Shraim

Name: Alaa Shraim

Title: Vice President

BGC PARTNERS, INC.
TERM LOAN CREDIT AGREEMENT

MIZUHO BANK, LTD.,

By: /s/ David Lim

Name: David Lim

Title: Authorized Signatory

BGC PARTNERS, INC.
TERM LOAN CREDIT AGREEMENT

INDUSTRIAL AND COMMERCIAL BANK OF CHINA LTD.,
NEW YORK BRANCH,

By: /s/ Guoshen Sun

Name: Guoshen Sun

Title: Deputy General Manager

BGC PARTNERS, INC.
TERM LOAN CREDIT AGREEMENT

BMO HARRIS BANK, N.A.,

By: /s/ Adam Tarr

Name: Adam Tarr

Title: Director

BGC PARTNERS, INC.
TERM LOAN CREDIT AGREEMENT

STIFEL BANK & TRUST,

By: /s/ Jeffrey Rombach

Name: Jeffrey Rombach

Title: Senior Vice President

BGC PARTNERS, INC.
TERM LOAN CREDIT AGREEMENT

REGIONS BANK,

By: /s/ Peter Wesemeier

Name: Peter Wesemeier

Title: Managing Director

BGC PARTNERS, INC.
TERM LOAN CREDIT AGREEMENT

ASSOCIATED BANK, NATIONAL ASSOCIATION,

By: /s/ Liliana Huerta Correa

Name: Liliana Huerta Correa

Title: Vice President

BGC PARTNERS, INC.
TERM LOAN CREDIT AGREEMENT

BANKUNITED, N.A.,

By: /s/ Paul Ferrara

Name: Paul Ferrara

Title: Vice President

BGC PARTNERS, INC.
TERM LOAN CREDIT AGREEMENT

Exhibit 2.02

FORM OF LOAN NOTICE

Date: _____, _____

To: Bank of America, N.A., as Administrative Agent

Ladies and Gentlemen:

Reference is made to that certain Term Loan Credit Agreement, dated as of September 8, 2017 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Credit Agreement," the terms defined therein being used herein as therein defined), among BGC Partners, Inc., a Delaware corporation (the "Borrower"), the Guarantors from time to time party thereto, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent.

The undersigned hereby requests (select one):

A Borrowing of Term Loans

A conversion or continuation of Term Loans

1. **ON** _____ **(A BUSINESS DAY).**
2. **IN THE AMOUNT OF \$** _____.
3. **COMPRISED OF** _____.
[TYPE OF LOAN REQUESTED]
4. **FOR EURODOLLAR RATE LOANS: WITH AN INTEREST PERIOD OF** _____ **MONTHS.**

[With respect to such Borrowing, the Borrower hereby represents and warrants that (i) such request complies with the requirements of Section 2.01 of the Credit Agreement and (ii) each of the conditions set forth in Section 4.02 of the Credit Agreement has been satisfied on and as of the date of such Borrowing.]

BGC PARTNERS, INC.

By: _____
Name: _____
Title: _____

Exhibit 2.05

FORM OF NOTICE OF LOAN PREPAYMENT

TO: Bank of America, N.A., as Administrative Agent

RE: Term Loan Credit Agreement dated as of September 8, 2017 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Credit Agreement," the terms defined therein being used herein as therein defined), among BGC Partners, Inc., a Delaware corporation (the "Borrower"), the Guarantors from time to time party thereto, the Lenders party thereto and Bank of America, N.A., in its capacity as administrative agent (in such capacity, the "Administrative Agent") for the lenders from time to time party to the Credit Agreement.

DATE: [Date]

The Borrower hereby notifies the Administrative Agent that on _____¹ pursuant to the terms of Section 2.05 of the Credit Agreement, the Borrower intends to prepay the following Loans as more specifically set forth below:

Voluntary prepayment in the following amount(s):

Eurodollar Rate Loans: \$ _____²

Applicable Interest Period: _____

Base Rate Loans: \$ _____³

Delivery of an executed counterpart of a signature page of this notice by fax transmission or other electronic mail transmission (e.g. "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this notice.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

¹ Specify date of such prepayment.

² Any prepayment of Eurodollar Rate Loans shall be in a principal amount of \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof (or if less, the entire principal amount thereof outstanding).

³ Any prepayment of Base Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof (or if less, the entire principal amount thereof outstanding).

BGC PARTNERS, INC.,

a Delaware corporation

By: _____

Name: _____

Title: _____

Exhibit 2.11

FORM OF NOTE

_____, 20 ____

FOR VALUE RECEIVED, the undersigned (the “Borrower”), hereby promises to pay to _____ or registered assigns (the “Lender”), in accordance with the provisions of the Agreement (as hereinafter defined), the principal amount of each Loan from time to time made by the Lender to the Borrower under that certain Term Loan Credit Agreement, dated as of September 8, 2017 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the “Agreement,” the terms defined therein being used herein as therein defined), among the Borrower, the Guarantors from time to time party thereto, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent.

The Borrower promises to pay interest on the unpaid principal amount of each Loan from the date of such Loan until such principal amount is paid in full, at such interest rates and at such times as provided in the Agreement. All payments of principal and interest shall be made to the Administrative Agent for the account of the Lender in Dollars in immediately available funds at the Administrative Agent’s Office. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Agreement.

This Note is one of the Notes referred to in the Agreement, is entitled to the benefits thereof and may be prepaid in whole or in part subject to the terms and conditions provided therein. Upon the occurrence and continuation of one or more of the Events of Default specified in the Agreement, all amounts then remaining unpaid on this Note shall become, or may be declared to be, immediately due and payable all as provided in the Agreement. Loans made by the Lender shall be evidenced by one or more loan accounts or records maintained by the Lender in the ordinary course of business. The Lender may also attach schedules to this Note and endorse thereon the date, amount and maturity of its Loans and payments with respect thereto.

The Borrower, for itself, its successors and assigns, hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Note.

THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

BGC PARTNERS, INC.

By: _____
Name:
Title:

EXHIBIT 3.01-A

FORM OF

U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Term Loan Credit Agreement dated as of September 8, 2017 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among BGC Partners, Inc., a Delaware corporation (the "Borrower"), the Guarantors identified therein, the Lenders identified therein, and Bank of America, N.A., as Administrative Agent.

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Internal Revenue Code and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Internal Revenue Code.

The undersigned has furnished the Administrative Agent and the Borrower with a certificate of its non-U.S. Person status on IRS Form W-8BENE (or W-8BEN, as applicable). By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: _____

Name: _____

Title: _____

Date: _____, 20 _____

EXHIBIT 3.01-B

**FORM OF
U.S. TAX COMPLIANCE CERTIFICATE**

(For Foreign Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Term Loan Credit Agreement dated as of September 8, 2017 (as amended, supplemented or otherwise modified from time to time, the “Credit Agreement”), among BGC Partners, Inc., a Delaware corporation (the “Borrower”), the Guarantors identified therein, the Lenders identified therein, and Bank of America, N.A., as Administrative Agent.

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Internal Revenue Code, and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Internal Revenue Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. Person status on IRS Form W-8BENE (or W-8BEN, as applicable). By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____

Name: _____

Title: _____

Date: _____, 20 _____

EXHIBIT 3.01-C

**FORM OF
U.S. TAX COMPLIANCE CERTIFICATE**

(For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Term Loan Credit Agreement dated as of September 8, 2017 (as amended, supplemented or otherwise modified from time to time, the “Credit Agreement”), among BGC Partners, Inc., a Delaware corporation (the “Borrower”), the Guarantors identified therein, the Lenders identified therein, and Bank of America, N.A., as Administrative Agent.

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such participation, (iii) with respect such participation, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Internal Revenue Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Internal Revenue Code.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BENE (or W-8BEN, as applicable) or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BENE (or W-8BEN, as applicable) from each of such partner’s/member’s beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____

Name: _____

Title: _____

Date: _____, 20 _____

EXHIBIT 3.01-D

**FORM OF
U.S. TAX COMPLIANCE CERTIFICATE**

(For Foreign Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Term Loan Credit Agreement dated as of September 8, 2017 (as amended, supplemented or otherwise modified from time to time, the “Credit Agreement”), among BGC Partners, Inc., a Delaware corporation (the “Borrower”), the Guarantors identified therein, the Lenders identified therein, and Bank of America, N.A., as Administrative Agent.

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Loan(s) (as well as any Note(s) evidencing such Loan(s)), (iii) with respect to the extension of credit pursuant to this Credit Agreement or any other Loan Document, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Internal Revenue Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Internal Revenue Code.

The undersigned has furnished the Administrative Agent and the Borrower with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BENE (or W-8BEN, as applicable) or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BENE (or W-8BEN, as applicable) from each of such partner’s/member’s beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: _____

Name: _____

Title: _____

Date: _____, 20 _____

Exhibit 6.02

FORM OF COMPLIANCE CERTIFICATE

For the fiscal period ended _____, 20 _____.

I, _____, [Title] of BGC PARTNERS, INC. (the "Borrower") hereby certify that, to the best of my knowledge and belief, with respect to that certain Term Loan Credit Agreement dated as of September 8, 2017 (as amended, modified, restated or supplemented from time to time, the "Credit Agreement"; all of the defined terms in the Credit Agreement are incorporated herein by reference) among the Borrower, the Guarantors, the Lenders and Bank of America, N.A., as Administrative Agent:

- (a) **The company-prepared financial statements which accompany this certificate are true and correct in all material respects and have been prepared in accordance with GAAP applied on a consistent basis, subject to changes resulting from normal year-end audit adjustments.**
- (b) **Since _____ (the date of the last similar certification, or, if none, the Closing Date) no Default or Event of Default has occurred under the Credit Agreement;**
- (c) **(select one):**
 - Attached hereto is a supplement to Schedule 5.11 (Loan Parties and Subsidiaries) of the Credit Agreement, such that, as supplemented, such Schedule is accurate and complete as of the date hereof.
 - No such supplement is required at this time.

Delivered herewith are detailed calculations demonstrating compliance by the Loan Parties with the financial covenants contained in Section 7.11 of the Credit Agreement as of the end of the fiscal period referred to above.

This _____ day of _____, 20 __.

BGC PARTNERS, INC.

By: _____
Name:
Title:

Computation of Financial Covenants

Exhibit 6.12

FORM OF JOINDER AGREEMENT

THIS JOINDER AGREEMENT (the “Agreement”), dated as of _____, 20____, is by and between _____, a _____ (the “Subsidiary”), and BANK OF AMERICA, N.A., in its capacity as Administrative Agent under that certain Term Loan Credit Agreement (as it may be amended, modified, restated or supplemented from time to time, the “Credit Agreement”), dated as of September 8, 2017, by and among BGC PARTNERS, INC., a Delaware corporation (the “Borrower”), the Guarantors, the Lenders and Bank of America, N.A., as Administrative Agent. All of the defined terms in the Credit Agreement are incorporated herein by reference.

The Loan Parties are required by Section 6.12 of the Credit Agreement to cause the Subsidiary to become a “Guarantor”.

Accordingly, the Subsidiary hereby agrees as follows with the Administrative Agent, for the benefit of the Lenders:

1. The Subsidiary hereby acknowledges, agrees and confirms that, by its execution of this Agreement, the Subsidiary will be deemed to be a party to the Credit Agreement and a “Guarantor” for all purposes of the Credit Agreement, and shall have all of the obligations of a Guarantor thereunder as if it had executed the Credit Agreement. The Subsidiary hereby ratifies, as of the date hereof, and agrees to be bound by, all of the terms, provisions and conditions applicable to the Guarantors contained in the Credit Agreement. Without limiting the generality of the foregoing terms of this paragraph 1, the Subsidiary hereby jointly and severally together with the other Guarantors, guarantees to each Lender and the Administrative Agent, as provided in Article X of the Credit Agreement, the prompt payment of the Obligations in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration, a mandatory cash collateralization or otherwise) strictly in accordance with the terms thereof.

2. The address of the Subsidiary for purposes of all notices and other communications is _____, _____, Attention of _____ (Facsimile No. _____).

3. The Subsidiary hereby waives acceptance by the Administrative Agent and the Lenders of the guaranty by the Subsidiary under Article X of the Credit Agreement upon the execution of this Agreement by the Subsidiary.

4. This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which when taken together shall constitute one contract.

5. This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, the Subsidiary has caused this Joinder Agreement to be duly executed by its authorized officers, and the Administrative Agent, for the benefit of the Lenders, has caused the same to be accepted by its authorized officer, as of the day and year first above written.

[SUBSIDIARY]

By: _____

Name:

Title:

Acknowledged and accepted:

BANK OF AMERICA, N.A.,

as Administrative Agent

By: _____

Name:

Title:

Exhibit 11.06(b)

FORM OF ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (this “ Assignment and Assumption ”) is dated as of the Effective Date set forth below and is entered into by and between [*Insert name of Assignor*] (the “ Assignor ”) and [*Insert name of Assignee*] (the “ Assignee ”). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, the “ Credit Agreement ”), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of the Assignor’s rights and obligations as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto in the amount[s] and equal to the percentage interest[s] identified below of all the outstanding rights and obligations under the respective facilities identified below (including, without limitation, Guarantees included in such facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including, but not limited to, contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as, the “ Assigned Interest ”). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. Assignor: _____
[Assignor [is][is not] a Defaulting Lender.]

 2. Assignee: _____
[and is an Affiliate/Approved Fund of [*identify Lender*] ⁴]

 3. Borrower: BGC Partners, Inc., a Delaware corporation

 4. Agent: Bank of America, N.A., as the administrative agent under the Credit Agreement

 5. Credit Agreement: Term Loan Credit Agreement dated as of September 8, 2017 among the Borrower, the Guarantors party thereto, the Lenders party thereto and Bank of America, N.A., as Administrative Agent

 6. Assigned Interest: _____
- ⁴ Select as applicable.

Facility Assigned ⁵	Aggregate Amount of Commitment/ Loans for all Lenders	Amount of Commitment/Loans Assigned *	Percentage Assigned of Commitment/Loans ⁶
	\$	\$	%
	\$	\$	%
	\$	\$	%

[7. Trade Date: _____] ⁷

Effective Date: _____, 20____ [TO BE INSERTED BY AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR

[NAME OF ASSIGNOR]

By: _____

Title:

ASSIGNEE

[NAME OF ASSIGNEE]

By: _____

Title:

[Consented to and] ⁸ Accepted:

BANK OF AMERICA, N.A. as

Agent

By _____

⁵ Fill in the appropriate terminology for the types of facilities under the Credit Agreement that are being assigned under this Assignment (e.g. "Term Loan Commitment")

* Amount to be adjusted by the counterparties to take into account any payments or prepayments made between the Trade Date and the Effective Date.

⁶ Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.

⁷ To be completed if the Assignor and the Assignee intend that the minimum assignment amount is to be determined as of the Trade Date.

⁸ To be added only if the consent of the Administrative Agent is required by the terms of the Credit Agreement.

Title:

BGC PARTNERS, INC.

By _____

Title:

STANDARD TERMS AND CONDITIONS FOR
ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties .

1.1 Assignor . The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim, (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and (iv) it is [not] a Defaulting Lender; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2 Assignee . The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets the requirements to be an assignee under Section 11.06(b)(iii) and (v) of the Credit Agreement (subject to such consents, if any, as may be required under Section 11.06(b)(iii) of the Credit Agreement), (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it is sophisticated with respect to decisions to acquire assets of the type represented by the Assigned Interest and either it, or the Person exercising discretion in making its decision to acquire the Assigned Interest, is experienced in acquiring assets of such type, (v) it has received a copy of the Credit Agreement, and has received or has been accorded the opportunity to receive copies of the most recent financial statements delivered pursuant to Section 6.01 thereof, as applicable, and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest, (vi) it has, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest, and (vii) if it is a Foreign Lender, attached hereto is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

The Assignee represents and warrants as of the Effective Date to the Administrative Agent, the Assignor and the respective Affiliates of each, and not, for the avoidance of doubt, for the benefit of the Borrower or any other Loan Party, that (i) the Assignee is not and will not be (A) an employee benefit plan subject to Title I of ERISA; (B) a plan or account subject to Section 4975 of the Code; or (C) a “governmental plan” within the meaning of ERISA; and (ii) the assets used by such Lender’s Commitment do not include “plan assets” of any such plans or accounts for purposes of ERISA or the Code.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date. Notwithstanding the foregoing, the Administrative Agent shall make all payments of interest, fees or other amounts paid or payable in kind from and after the Effective Date to the Assignee.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of New York.

Exhibit 11.06(b)(iv)

FORM OF ADMINISTRATIVE QUESTIONNAIRE

[Request appropriate form from Administrative Agent]

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the following registration statements

- (1) Registration Statement (Form S-4 No. 333-169232) of BGC Partners, Inc.,
- (2) Registration Statement (Form S-3 No. 333-167953) of BGC Partners, Inc.,
- (3) Registration Statement (Form S-3 No. 333-180331) of BGC Partners, Inc.,
- (4) Registration Statement (Form S-3 No. 333-173109) of BGC Partners, Inc.,
- (5) Registration Statement (Form S-3 No. 333-175034) of BGC Partners, Inc.,
- (6) Registration Statement (Form S-3 No. 333-180391) of BGC Partners, Inc.,
- (7) Registration Statement (Form S-3 No. 333-187875) of BGC Partners, Inc.,
- (8) Registration Statement (Form S-8 No. 333-189179) of BGC Partners, Inc.,
- (9) Registration Statement (Form S-8 No. 333-196708) of BGC Partners, Inc.,
- (10) Registration Statement (Form S-3 No. 333-196999) of BGC Partners, Inc.,
- (11) Registration Statement (Form S-3 No. 333-200415) of BGC Partners, Inc.,
- (12) Registration Statement (Form S-4 No. 333-201325) of BGC Partners, Inc.
- (13) Registration Statement (Form S-3 No. 333-204980) of BGC Partners, Inc.,
- (14) Registration Statement (Form S-8 No. 333-207257) of BGC Partners, Inc.,
- (15) Registration Statement (Form S-3 No. 333-207376) of BGC Partners, Inc.,
- (16) Registration Statement (Form S-3 No. 333-208967) of BGC Partners, Inc.,
- (17) Registration Statement (Form S-4 No. 333-213163) of BGC Partners, Inc.,
- (18) Registration Statement (Form S-8 No. 333-213165) of BGC Partners, Inc.,
- (19) Registration Statement (Form S-3 No. 333-214772) of BGC Partners, Inc., and
- (20) Registration Statement (Form S-3 No. 333-220022) of BGC Partners, Inc.

of our report dated August 23, 2017, with respect to the consolidated balance sheets of Berkeley Point Financial LLC as of December 31, 2016 and 2015 (Successor), and the related consolidated statements of operations for the years ended December 31, 2016 and 2015 (Successor) and for the periods April 10, 2014 through December 31, 2014 (Successor) and January 1, 2014 through April 9, 2014 (Predecessor), changes in members' capital for the period January 1, 2014 through April 9, 2014 (Predecessor), changes in member's capital for the years ended December 31, 2016 and 2015 (Successor) and for the period April 10, 2014 through December 31, 2014 (Successor), and cash flows for the years ended December 31, 2016 and 2015 (Successor) and for the periods April 10, 2014 through December 31, 2014 (Successor) and January 1, 2014 through April 9, 2014 (Predecessor), which report appears in the Form 8-K of BGC Partners, Inc. dated September 8, 2017.

/s/ KPMG LLP
Boston, Massachusetts
September 8, 2017

**BERKELEY POINT FINANCIAL LLC
AND SUBSIDIARIES**

Consolidated Financial Statements (Unaudited)

As of June 30, 2017 and December 31, 2016 and for the six months ended

June 30, 2017 and 2016

**BERKELEY POINT FINANCIAL LLC
AND SUBSIDIARIES**

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**BERKELEY POINT FINANCIAL LLC
AND SUBSIDIARIES**
Consolidated Balance Sheets (Unaudited)
(In thousands)

Assets	June 30, 2017	December 31, 2016
Current Assets:		
Cash and cash equivalents	\$ 61,458	\$ 33,589
Restricted cash and cash equivalents	52,111	50,927
Loans held for sale, at fair value	933,850	1,071,836
Derivative assets	19,265	19,924
Due from affiliates	129,311	—
Other current assets	20,722	13,171
Total Current Assets:	1,216,717	1,189,447
Mortgage servicing rights, net	376,427	339,816
Credit enhancement receivable	12	156
Goodwill	191	191
Other intangible assets, net	5,458	5,465
Other assets	4,918	4,124
Total assets	<u>\$1,603,723</u>	<u>\$ 1,539,199</u>
Liabilities and Member's Capital		
Current Liabilities:		
Accounts payable and accrued expenses	\$ 32,003	\$ 32,305
Due to affiliates	—	691,509
Borrower deposits	5,740	6,102
Derivative liabilities	8,699	9,670
Warehouse notes payable	933,909	257,969
Total current liabilities:	980,351	997,555
Financial guarantee liability	200	413
Credit enhancement deposit	25,000	25,000
Contingent liability	10,607	10,390
Other liabilities	30,356	26,039
Total liabilities	1,046,514	1,059,397
Member's capital	557,209	479,802
Total liabilities and member's capital	<u>\$1,603,723</u>	<u>\$ 1,539,199</u>

See accompanying notes to unaudited consolidated financial statements.

**BERKELEY POINT FINANCIAL LLC
AND SUBSIDIARIES**
Consolidated Statements of Operations (Unaudited)
(In thousands)

	For the six months ended	
	June 30, 2017	June 30, 2016
Revenues		
Gains from mortgage banking activities, net	\$ 114,777	\$ 72,112
Servicing fees	51,672	39,696
Interest income on loans held for sale	19,194	9,913
Other interest income	685	246
Total revenues	<u>186,328</u>	<u>121,967</u>
Expenses		
Personnel expenses	51,210	36,115
Amortization and depreciation	33,157	31,218
Interest expense—warehouse	13,756	6,857
Interest expense—corporate	211	558
Provision for risk-sharing obligations	(63)	325
Other operating expenses	10,626	7,287
Total expenses	<u>108,897</u>	<u>82,360</u>
Income before income taxes	77,431	39,607
Income tax expense	24	58
Net income	<u>\$ 77,407</u>	<u>\$ 39,549</u>

See accompanying notes to unaudited consolidated financial statements.

**BERKELEY POINT FINANCIAL LLC
AND SUBSIDIARIES**
Consolidated Statements of Changes in Member's Capital (Unaudited)
(In thousands)

Balance at December 31, 2015	<u>\$354,601</u>
Net income	<u>125,201</u>
Balance at December 31, 2016	<u>\$479,802</u>
Balance at December 31, 2016	<u>\$479,802</u>
Net income	<u>77,407</u>
Balance at June 30, 2017	<u>\$557,209</u>

See accompanying notes to unaudited consolidated financial statements.

**BERKELEY POINT FINANCIAL LLC
AND SUBSIDIARIES**
Consolidated Statements of Cash Flows (Unaudited)
(In thousands)

	For the six months ended	
	June 30, 2017	June 30, 2016
Cash flows from operating activities:		
Net income	\$ 77,407	\$ 39,549
Adjustments to reconcile net income to net cash provided by (used in) operating activities:		
Gain on originated mortgage servicing rights	(69,265)	(46,262)
Amortization and depreciation	33,157	31,218
Amortization of deferred financing costs	807	704
Unrealized losses (gains) on loans held for sale	(2,534)	(4,144)
Loan originations—loans held for sale	(5,811,773)	(3,281,613)
Loan sales—loans held for sale	5,952,293	3,091,227
(Increase) decrease in operating assets:		
Restricted cash & cash equivalents	(1,184)	(2,626)
Due from affiliates	689	—
Other assets	(8,280)	(2,082)
Derivative assets	659	(1,241)
Credit enhancement receivable	144	74
Increase (decrease) in operating liabilities:		
Accounts payable and accrued expenses	4,334	(52)
Due to affiliates	(1,509)	(130)
Borrower deposits	(362)	3,143
Derivative liabilities	(971)	2,426
Financial guarantee liability	(214)	244
Contingent liability	217	565
Net cash provided by (used in) operating activities	<u>173,615</u>	<u>(169,000)</u>
Cash flows from investing activities:		
Purchase of fixed assets	(225)	(676)
Purchase of mortgage servicing rights	(577)	(2,181)
Advances to CCRE	(285,000)	(175,000)
Repayments from CCRE	155,000	175,000
Net cash provided by (used in) investing activities	<u>(130,802)</u>	<u>(2,857)</u>
Cash flows from financing activities:		
Proceeds from warehouse notes payable	5,851,890	3,281,613
Principal payments on warehouse notes payable	(5,175,950)	(3,437,697)
Advances from CCRE	241,000	466,000
Repayments to CCRE	(931,000)	(150,000)
Payment of deferred financing costs	(884)	(869)
Net cash provided by (used in) financing activities	<u>(14,944)</u>	<u>159,047</u>
Increase (decrease) in cash and cash equivalents	27,869	(12,810)
Cash and cash equivalents at beginning of period	33,589	100,894
Cash and cash equivalents at end of period	<u>\$ 61,458</u>	<u>\$ 88,084</u>
Supplemental disclosure of cash flow information:		
Cash paid during the period for:		
Interest	\$ 12,263	\$ 6,266
Taxes	\$ 24	\$ 58

See accompanying notes to unaudited consolidated financial statements.

**BERKELEY POINT FINANCIAL LLC
AND SUBSIDIARIES**

Notes to Consolidated Financial Statements (Unaudited)

(1) Organization and Nature of Business

Berkeley Point Financial LLC (with its subsidiaries, the Company or BPF) is a Delaware limited liability company and wholly owns Berkeley Point Capital Holdings LLC (BPCH), also a Delaware limited liability company. BPCH wholly owns two subsidiaries, Berkeley Point Capital LLC (BPC) and Berkeley Point Interim Lending LLC (BPIL), both Delaware limited liability companies. BPC is the sole owner of one subsidiary, Berkeley Point Intermediary Inc. (BPII), a Delaware Corporation.

On April 10, 2014, BPF became a wholly owned subsidiary of Cantor Commercial Real Estate Company, L.P. (CCRE) when 100% of the membership interests in BPF were sold to CCRE in return for cash and limited partnership units in CCRE. The fair value of the consideration paid was allocated to tangible and intangible assets acquired and liabilities assumed based on their estimated fair values as of the sale date (see Note 3).

Nature of Business

BPF, through its subsidiary BPC, is principally engaged in the origination, funding, sale and servicing of multi-family and commercial mortgage loans. After sale, BPF generally retains the rights to service the loans and may share in the risk of loss (see Note 11). Loans are sourced from a nationwide network of originators and correspondents. In the normal course of business, BPF accepts loan applications and application fees, manages the due diligence process, issues loan commitments, accepts commitment deposits, and closes loans. Loans are underwritten and processed according to guidelines set by BPF and various government sponsored entities. Initial funding for the loans is provided by warehouse line relationships.

BPF, through its subsidiary BPC, is approved to participate in a number of loan origination, sale and servicing programs operated by government sponsored enterprises (GSEs). The GSEs include the Federal Housing Authority (FHA), Government National Mortgage Association (GNMA), Federal Home Loan Mortgage Corporation (Freddie Mac) and the Federal National Mortgage Association (Fannie Mae).

(2) Summary of Significant Accounting Policies

(a) *Basis of Presentation*

The accompanying consolidated financial statements are prepared in accordance with accounting principles generally accepted in the United States of America (U.S. GAAP).

The consolidated financial statements include the accounts of BPF, BPCH, BPIL, BPC and BPII (collectively, the Company). All material intercompany balances and transactions have been eliminated in consolidation.

**BERKELEY POINT FINANCIAL LLC
AND SUBSIDIARIES**

Notes to Consolidated Financial Statements (Unaudited)

(b) Recently Issued and Adopted Accounting Pronouncements

In May 2014, the Financial Accounting Standards Board (FASB) issued ASU No. 2014-09, Revenue from Contracts with Customers, which relates to how an entity recognizes the revenue it expects to be entitled to for the transfer of promised goods and services to customers. The ASU will replace certain existing revenue recognition guidance. The guidance, as stated in ASU No. 2014-09, was initially effective beginning on January 1, 2017. In August 2015, the FASB issued ASU No. 2015-14, Revenue from Contracts with Customers—Deferral of Effective Date, which defers the effective date by one year, with early adoption on the original effective date permitted. The standard permits the use of either the retrospective or cumulative effect transition method. The Company is currently evaluating the impact of the new guidance on its consolidated financial statements.

In February 2016, the FASB issued ASU No. 2016-02, Leases (Topic 842). This ASU requires lessees to recognize a right-of-use asset and lease liability for all leases with terms of more than 12 months. Recognition, measurement and presentation of expenses will depend on classification as a finance or operating lease. The amendments also require certain quantitative and qualitative disclosures. Accounting guidance for lessors is largely unchanged. The guidance is effective beginning January 1, 2019, with early adoption permitted. The Company is currently evaluating the impact of the new guidance on its consolidated financial statements.

In June 2016, the FASB issued ASU 2016-13, Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments (“ASU 2016-13”). ASU 2016-13 represents a significant change to the incurred loss model currently used to account for credit losses. The ASU requires an entity to estimate the credit losses expected over the life of the credit exposure upon initial recognition of that exposure. The expected credit losses consider historical information, current information, and reasonable and supportable forecasts, including estimates of prepayments. Exposures with similar risk characteristics are required to be grouped together when estimating expected credit losses. The initial estimate and subsequent changes to the estimated credit losses are required to be reported in current earnings in the income statement and through an allowance in the balance sheet. ASU 2016-13 is applicable to financial assets subject to credit losses and measured at amortized cost and certain off-balance sheet credit exposures. The ASU will modify the way the Company estimates its financial guarantee liability. The effective date for the ASU for the Company is January 1, 2020, with early adoption permitted on January 1, 2019. The Company is in the process of determining the significance of the impact the ASU will have on its consolidated financial statements and the timing of when it will adopt the standard.

In August 2016, the FASB issued ASU 2016-15, Statement of Cash Flows (Topic 230)—Classification of Certain Cash Receipts and Cash Payments (“ASU 2016-15”). ASU 2016-15 changes how cash receipts and cash payments are presented and classified in the statement of cash flows. The new standard will become effective for the Company beginning with the first quarter of 2018 and will require adoption on a retrospective basis. The Company is currently evaluating the impact of the new guidance on its consolidated financial statements.

**BERKELEY POINT FINANCIAL LLC
AND SUBSIDIARIES**

Notes to Consolidated Financial Statements (Unaudited)

In November 2016, the FASB issued ASU No. 2016-18, Statement of Cash Flows (Topic 230)—Restricted Cash, which requires that the statement of cash flows explain the change during the period in the total of cash, cash equivalents and amounts generally described as restricted cash or restricted cash equivalents. The new standard will become effective for the Company beginning January 1, 2019 and will require adoption on a retrospective basis. The Company is currently evaluating the impact of the new guidance on its consolidated financial statements.

In January 2017, the FASB issued ASU No. 2017-04, Intangibles—Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment, which eliminates the requirement to determine the fair value of individual assets and liabilities of a reporting unit to measure goodwill impairment. Under the amendments in the new ASU, goodwill impairment testing will be performed by comparing the fair value of the reporting unit with its carrying amount and recognizing an impairment charge for the amount by which the carrying amount exceeds the reporting unit's fair value. The new standard will become effective for the Company beginning January 1, 2021 and will be applied on a prospective basis, and early adoption is permitted. The Company is currently evaluating the impact of the new guidance on its consolidated financial statements.

(c) Use of Estimates

The preparation of these consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of the assets and liabilities, revenues and expenses, and the disclosure of contingent assets and liabilities in these consolidated financial statements. Management believes that the estimates used in preparing these consolidated financial statements are reasonable. Estimates, by their nature, are based on judgement and available information. As such, actual results could differ materially from the estimates included in these consolidated financial statements.

(d) Cash and Cash Equivalents

The Company defines cash and cash equivalents as cash on hand and due from banks. The Company also considers all highly liquid investments with original maturities of three months or less to be cash equivalents.

(e) Restricted Cash and Cash Equivalents

Restricted cash represents cash and cash equivalents set aside for amounts pledged for the benefit of Fannie Mae and Freddie Mac to secure BPF's financial guarantee liability.

(f) Loans Held for Sale (LHFS)

BPF maintains commercial mortgage loans for the purpose of sale to GSEs. Prior to funding, BPF enters into an agreement to sell the loans to third party investors at a fixed price. BPF has elected the fair value option to carry LHFS at fair market value. During the period prior to sale, interest income is calculated and recognized in accordance with the terms of the individual loan.

(g) Fair Value Measurements

The fair value of a financial instrument is the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date (the exit price). Fair value measurements do not include transaction costs.

The fair value hierarchy prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and lowest priority to unobservable inputs (Level 3 measurements). The three levels of the fair value hierarchy are described below:

Level 1 Unadjusted quoted prices in active markets that are accessible at the measurement date for identical, unrestricted assets or liabilities

Level 2 Quoted prices in markets that are not considered to be active or financial instruments for which all significant inputs are observable, either directly or indirectly

Level 3 Prices or valuations that require inputs that are both significant to the fair value measurement and unobservable

A financial instrument's level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement.

(h) Derivative Financial Instruments

BPF has loan commitments to extend credit to third parties. The commitments to extend credit are for mortgage loans at a specific rate (rate lock commitments). These commitments generally have fixed expiration dates or other termination clauses and may require a fee. BPF is committed to extend credit to the counterparty as long as there is no violation of any condition established in the commitment contracts.

BPF simultaneously enters into an agreement to deliver such mortgages to third party investors at a fixed price (forward sale contracts).

Both the commitment to extend credit and the forward sale commitment qualify as derivative financial instruments. BPF recognizes all derivatives on the consolidated balance sheet as assets or liabilities measured at fair value. The change in the derivatives fair value is recognized in current period earnings.

(i) Financial Guarantee Liability

BPF recognizes a liability in connection with the guarantee provided to Fannie Mae under the Delegated Underwriting and Servicing Program (DUS) and Freddie Mac under the Targeted Affordable Housing Program (TAH). The financial guarantee liability requires BPF to make payments to the guaranteed party based on borrowers' failure to meet its obligations. The liability is adjusted through provisions charged or reversed through operations.

**BERKELEY POINT FINANCIAL LLC
AND SUBSIDIARIES**

Notes to Consolidated Financial Statements (Unaudited)

(j) Credit Enhancement Receivable

DB Cayman (as defined in Note 7) provides significant credit protection for BPF (see Note 7). Probable payments to be received from DB Cayman are recorded on the consolidated balance sheet as Credit enhancement receivable.

(k) Contingent Liability

BPF is obligated to make a payment to DB Cayman on March 9, 2021 (see Note 7) for an amount based on actual financial guarantee payments compared to predetermined thresholds. BPF records this liability at the net present value of the expected payment using a discount rate equivalent to an estimate of the rate the Company would pay for unsecured debt.

(l) Mortgage Servicing Rights (MSR)

BPF initially recognizes and measures the rights to service mortgage loans at fair value and subsequently measures them using the amortization method. BPF recognizes rights to service mortgage loans as separate assets at the time the underlying originated mortgage loan is sold and the value of those rights is included in the determination of the gain on loans held for sale.

Purchased MSRs, including MSRs purchased from CCRE, are initially recorded at fair value and subsequently measured using the amortization method.

BPF receives up to a 3 basis point servicing fee and/or up to a 1 basis point surveillance fee on certain Freddie Mac loans after the loan is securitized in a Freddie Mac pool (Freddie Mac Strip). The Freddie Mac Strip is also recognized at fair value and subsequently measured using the amortization method, but is recognized as a MSR at the securitization date.

MSRs are assessed for impairment, at least on an annual basis, based upon the fair value of those rights as compared to the amortized cost. Fair values are estimated using a valuation model that calculates the present value of the future net servicing cash flows. In using this valuation method, BPF incorporates assumptions that management believes market participants would use in estimating future net servicing income. It is reasonably possible such estimates may change. BPF amortizes the mortgage servicing rights in proportion to, and over the period of, the projected net servicing income. For purposes of impairment evaluation and measurement, BPF stratifies MSRs based on predominant risk characteristics of the underlying loans, primarily by investor type (Fannie Mae/Freddie Mac, FHA/GNMA, CMBS, and other). To the extent that the carrying value exceeds fair value of a specific MSR strata a valuation allowance is established, which is adjusted in the future as the fair value of MSRs increases or decreases. Reversals of valuation allowances cannot exceed the amortized cost.

**BERKELEY POINT FINANCIAL LLC
AND SUBSIDIARIES**
Notes to Consolidated Financial Statements (Unaudited)

(m) Fixed Assets

Furniture and equipment and leasehold improvements are carried at cost less accumulated depreciation. Depreciation is computed on a straight-line basis and is charged to depreciation expense over the life of the lease for leasehold improvements or estimated useful lives of the furniture and equipment (3 to 7 years). Maintenance and repairs are expensed as incurred. Fixed assets are included in Other assets in the accompanying consolidated balance sheet.

(n) Goodwill

The Company recorded goodwill on April 10, 2014 with the purchase of the membership units of BPF by CCRE (see Note 3). Goodwill is tested at least annually for impairment, or more frequently if events or changes in circumstances, such as an adverse change in business climate, indicate that the goodwill may be impaired. There was no impairment during the six months ended June 30, 2017 and 2016.

(o) Other Intangible Assets

The Company's other intangible assets at June 30, 2017 are comprised of the value of the BPF's licenses to originate and service loans for the GSEs, office leases and the trade name of "Berkeley Point Capital". These assets are tested at least annually for impairment and there was no impairment during the six months ended June 30, 2017 and 2016.

(p) Comprehensive Income

For the periods presented, comprehensive income equaled net income, therefore a separate statement of comprehensive income is not included in the accompanying consolidated financial statements.

(q) Revenue recognition

Revenue is recognized when it is realized or realizable and earned. This concept is applied to key revenue generating activities of the Company as noted below.

Gains from mortgage banking activities, net

Gains from mortgage banking activities, net are recognized when a derivative asset is recorded upon the commitment to originate a loan with a borrower and sell the loan to an investor. The derivative is recorded at fair value and includes loan origination fees, sales premiums and the estimated fair value of the expected net servicing cash flows. Gains from mortgage banking activities, net are recognized net of related fees and commissions to affiliates or third party brokers. For loans the Company brokers, gains from mortgage banking activities are recognized when the loan is closed.

Servicing fees

Servicing fees are earned for servicing mortgage loans and are recognized on an accrual basis over the lives of the related mortgage loans. Also included in servicing fees are the fees earned on borrower prepayments, interest and placement fees on borrowers' escrow accounts and other ancillary fees.

**BERKELEY POINT FINANCIAL LLC
AND SUBSIDIARIES**
Notes to Consolidated Financial Statements (Unaudited)

(r) *Income Taxes*

The tax status of the Company is a pass-through entity under the provisions of the Internal Revenue Code and various states in which the Company is qualified to do business. As a pass-through entity, the Company is subject to inconsequential federal, state and local income taxes as owners separately account for their pro-rata share of the majority of the Company's items of income, deductions, losses and credits on their individual returns. No provision was made in the accompanying consolidated financial statements for federal, state and local income tax liabilities that are the responsibilities of the individual partners. The Company files income tax returns in the applicable U.S. federal, state and local jurisdictions and generally is subject to examination by the respective jurisdictions for three years from the filing of a tax return.

BPII is a corporation, and as such, is liable for income taxes.

(3) Goodwill and Other Intangible Assets

On April 10, 2014 (Closing Date), CCRE acquired 100% of the membership units of BPF, at which time BPF became a wholly-owned subsidiary of CCRE. In accordance with the Company's accounting policy, the purchase price paid by CCRE has been pushed down to the financial statements of BPF. Under push down accounting, historical assets and liabilities of BPF have been recast to the acquisition date fair value, in accordance with U.S. GAAP.

BPF recorded the assets and liabilities that were included in the acquisition at fair value. The fair value of the consideration paid was allocated to tangible and intangible assets acquired and liabilities assumed based on their estimated fair values at the Closing Date, with the remaining unallocated amount recognized as goodwill.

Remaining intangible assets acquired include the GSE licenses, the value of the "Berkeley Point Capital" trade name and below market office leases. The below market office leases are amortized over the remaining period of the underlying leases.

The following summarizes the Company's other intangible assets and goodwill (in thousands):

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June 30, 2017				
	Value at Acquisition	Accumulated Amortization	Net Carrying Value	Balance sheet location
<u>Amortizing intangible assets:</u>				
Office leases (1)	\$ 140	\$ (122)	\$ 18	Other intangible assets, net
<u>Non-amortizing intangible assets:</u>				
Goodwill	191	—	191	Goodwill
GSE licenses	5,390	—	5,390	Other intangible assets, net
Trade name	50	—	50	Other intangible assets, net
Total	\$ 5,771	\$ (122)	\$ 5,649	

December 31, 2016				
	Value at Acquisition	Accumulated Amortization	Net Carrying Value	Balance sheet location
<u>Amortizing intangible assets:</u>				
Office leases (1)	140	(114)	26	Other intangible assets, net
<u>Non-amortizing intangible assets:</u>				
Goodwill	191	—	191	Goodwill
GSE licenses	5,390	—	5,390	Other intangible assets, net
Trade name	50	—	50	Other intangible assets, net
Total	\$ 5,771	\$ (114)	\$ 5,657	

(1) Amortization expense is included in Other operating expenses in the accompanying consolidated statement of operations.

Future amortization expense for the amortizing intangible assets is as follows (in thousands) as of June 30, 2017:

2017	Office Leases \$ 9
2018	9
Total	\$ 18

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(4) Capital and Liquidity Requirements

BPF is subject to various capital requirements in connection with seller/servicer agreements that BPF has entered into with the various GSEs. Failure to maintain minimum capital requirements could result in BPF's inability to originate and service loans for the respective GSEs and could have a direct material adverse effect on the Company's consolidated financial statements. Management believes that as of June 30, 2017 and December 31, 2016 that BPF has met all capital requirements. As of June 30, 2017 the most restrictive capital requirement was Fannie Mae's net worth requirement. The Company exceeded the minimum requirement by \$322.6 million.

Certain of BPF's agreements with Fannie Mae allow BPF to originate and service loans under Fannie Mae's DUS Program. These agreements require BPF to maintain sufficient collateral to meet Fannie Mae's restricted and operational liquidity requirements based on a pre-established formula. Certain of BPF's agreements with Freddie Mac allow BPF to service loans under Freddie Mac's Targeted Affordable Housing Program (TAH). These agreements require BPF to pledge sufficient collateral to meet Freddie Mac's liquidity requirement of 8% of the outstanding principal of TAH loans serviced by BPF. Management believes that as of June 30, 2017 and December 31, 2016 that BPF has met all liquidity requirements.

In addition, as a servicer for Fannie Mae, GNMA and FHA, BPF is required to advance to investors any uncollected principal and interest due from borrowers. At December 31, 2016 outstanding borrower advances were approximately \$106 thousand and are included in other assets in the accompanying consolidated balance sheet. There were no outstanding advances at June 30, 2017.

(5) Loans Held for Sale (LHFS)

ASC 825, *Financial Instruments*, provides entities with an option to measure financial instruments at fair value. BPF initially and subsequently measures all loans held for sale at fair value on the accompanying consolidated balance sheet. This fair value measurement falls within the definition of a Level 2 measurement (significant other observable inputs) within the fair value hierarchy. Loans held for sale represent originated loans that are typically sold within 45 days from the date that the mortgage loan is funded. Electing to use fair value allows a better offset of the change in fair value of the loan and the change in fair value of the derivative instruments used as economic hedges. During the period prior to its sale, interest income on a loan held for sale is calculated in accordance with the terms of the individual loan and is recorded in Interest income on loans held for sale in the accompanying consolidated statement of operations. Loans held for sale had a cost basis and fair value as follows (in thousands):

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	Cost Basis	Fair Value
June 30, 2017	\$ 933,909	\$ 933,850
December 31, 2016	1,074,429	1,071,836

As of June 30, 2017 and December 31, 2016 there were no loans held for sale that were 90 days or more past due or in nonaccrual status.

(6) Derivatives

BPF accounts for its derivatives at fair value, and recognized all derivatives as either assets or liabilities in its consolidated balance sheet. In its normal course of business, BPF enters into commitments to extend credit for mortgage loans at a specific rate (rate lock commitments) and commitments to deliver these loans to third party investors at a fixed price (forward sale contracts). These transactions are accounted for as derivatives.

The fair value and notional balances of BPF's derivatives for rate lock commitments and forward sale contracts can be found in Note 17.

The fair value of BPF's derivatives for rate lock commitments and forward sale contracts are as follows (in thousands) and are included in Gains from mortgage banking activities, net and Personnel expenses in the accompanying consolidated statements of operations.

		Location of gain (loss) recognized in income for derivatives	For the six months ended	
			June 30, 2017	June 30, 2016
Derivatives not designed as hedging instruments:				
Rate lock commitments	Gains from mortgage banking activities		\$ 1,233	\$ 2,080
Rate lock commitments	Personnel expenses		(1,799)	(873)
Forward sale contracts	Gains from mortgage banking activities		11,132	3,908
Total			\$ 10,566	\$ 5,115

(7) Credit Enhancement Receivable, Contingent Liability & Credit Enhancement Deposit

BPF is a party to a Credit Enhancement Agreement (CEA) dated March 9, 2012, with German American Capital Corporation and Deutsche Bank Americas Holding Corporation (together, DB Entities). On October 20, 2016, the DB Entities assigned the CEA to Deutsche Bank AG Cayman Island Branch, a Cayman Island Branch of Deutsche Bank AG (DB Cayman). Under the terms of

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these agreements, DB Cayman provides BPF with varying levels of ongoing credit protection, subject to certain limits, for Fannie Mae and Freddie Mac loans subject to loss sharing (see Note 11) in BPF's servicing portfolio as of March 9, 2012. DB Cayman will also reimburse BPF for any losses incurred due to violation of underwriting and servicing agreements that occurred prior to March 9, 2012. For the six months ended June 30, 2017 and 2016, there were no reimbursements under this agreement.

Credit enhancement receivable

At June 30, 2017, BPF had \$18.0 billion of credit risk loans in its servicing portfolio with a maximum pre-credit enhancement loss exposure of \$5.1 billion. BPF had a form of credit protection from DB Cayman on \$4.6 billion of credit risk loans with a maximum loss exposure coverage of \$1.3 billion. The amount of the maximum loss exposure without any form of credit protection from DB Cayman is \$3.8 billion.

At December 31, 2016, BPF had \$16.9 billion of credit risk loans in its servicing portfolio with a maximum pre-credit enhancement loss exposure of \$4.7 billion. BPF had a form of credit protection from the DB Entities on \$5.5 billion of credit risk loans with a maximum loss exposure coverage of \$1.6 billion. The amount of the maximum loss exposure without any form of credit protection from DB Cayman is \$3.1 billion.

As of June 30, 2017, the Credit enhancement receivable was \$12 thousand.

Credit enhancement deposit

The CEA required the DB Entities to deposit \$25 million into BPF's Fannie Mae restricted liquidity account (see Note 4), which BPF is required to return to DB Cayman, less any outstanding claims, on March 5, 2021. The \$25 million liability is included in Credit enhancement deposit in the accompanying consolidated balance sheet.

Contingent liability

Under the CEA, BPF is required to pay DB Cayman on March 9, 2021, an amount equal to 50% of the positive difference, if any, between (a) \$25 million, and (b) BPF's unreimbursed loss sharing payments from March 9, 2012 through March 9, 2021 on BPF's servicing portfolio as of March 9, 2012.

As of June 30, 2017, the Contingent liability was \$10.6 million.

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(8) Gains from mortgage banking activities, net

Gains from mortgage banking activities, net consists of the following activity (in thousands):

	For the six months ended:	
	2017	2016
Loan origination related fees and sales premiums, net	\$ 42,870	\$ 23,239
Fair value of expected net future cash flows from servicing recognized at commitment, net	71,907	48,883
Gains from mortgage banking activities, net	<u>\$ 114,777</u>	<u>\$ 72,122</u>

(9) Mortgage Servicing Rights (MSR)

A summary of the activity in mortgage servicing rights for the Company for the six months ended June 30, 2017 and for the year ended December 31, 2016 is as follows (in thousands):

	For the six months ended June 30, 2017	For the year ended December 31, 2016
<u>Mortgage Servicing Rights</u>		
Beginning Balance	\$ 347,558	\$ 271,849
Additions	69,265	126,547
Purchases from an affiliate	577	3,905
Purchases from third parties	—	3,771
Amortization	(35,492)	(58,514)
Ending Balance	<u>\$ 381,908</u>	<u>\$ 347,558</u>
<u>Valuation Allowance</u>		
Beginning Balance	\$ (7,742)	\$ (7,936)
Decrease (increase)	2,261	194
Ending Balance	<u>\$ (5,481)</u>	<u>\$ (7,742)</u>
Net balance	<u>\$ 376,427</u>	<u>\$ 339,816</u>

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On July 21, 2016, the Company purchased the mortgage servicing rights to a portfolio of FHA/GNMA construction loans from an unaffiliated third party for \$3.8 million.

The amount of contractually specified servicing fees (including primary and special servicing fees) and ancillary fees (including yield maintenance fees) earned by BPF were as follows:

	For the six months ended	
	June 30, 2017	June 30, 2016
Contractual servicing fees	\$ 45,784	\$ 36,631
Escrow interest and placement fees	3,480	1,639
Ancillary fees	2,408	1,426
Total Servicing fees	<u>\$ 51,672</u>	<u>\$ 39,696</u>

These fees are classified as Servicing fees in the accompanying consolidated statements of operations.

The Company's primary servicing portfolio at June 30, 2017 and December 31, 2016 was approximately \$53.2 billion and \$50.6 billion, respectively. The Company's special servicing portfolio at June 30, 2017 and December 31, 2016 was \$5.1 billion.

The estimated fair value of the MSR's at June 30, 2017 and December 31, 2016 was \$391.3 million and \$344.9 million, respectively.

Fair values are estimated using a valuation model that calculates the present value of the future net servicing cash flows. The cash flows assumptions used are based on assumptions BPF believes market participants would use to value the portfolio. Significant assumptions include estimates of the cost of servicing per loan, discount rate, earnings rate on escrow deposits and prepayment speeds. An increase in discount rate of 100 bps or 200 bps would result in a decrease in fair value by \$11.2 million and \$21.8 million, respectively, at June 30, 2017 and by \$9.9 million and \$19.3 million, respectively, at December 31, 2016.

(10) Warehouse Notes Payable

BPF uses its warehouse lines and a repurchase agreement to fund mortgage loans originated under its various lending programs. Outstanding borrowings against these lines are collateralized by an assignment of the underlying mortgages and third party purchase commitments. As of June 30, 2017, BPF had the following lines available and borrowings outstanding (in thousands):

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	Committed Lines	Uncommitted Lines	Balance at June 30, 2017	Stated Spread to One Month LIBOR	Rate Type
Warehouse line due June 20, 2018	\$450,000	\$ —	\$ 441,368	135 bps	Variable
Warehouse line due September 25, 2017	200,000	—	146,569	135 bps	Variable
Warehouse line due October 12, 2017	300,000	—	291,722	135 bps	Variable
Fannie Mae repurchase agreement, open maturity	—	325,000	54,250	120 bps	Variable
	<u>\$950,000</u>	<u>\$ 325,000</u>	<u>\$ 933,909</u>		

At December 31, 2016, BPF had the following lines available and borrowings outstanding (in thousands);

	Committed Lines	Uncommitted Lines	Balance at December 31, 2016	Stated Spread to One Month LIBOR	Rate Type
Warehouse line due April 21, 2017	\$450,000	\$ —	\$ 43,356	135 bps	Variable
Warehouse line due September 25, 2017	200,000	—	34,628	135 bps	Variable
Warehouse line due October 12, 2017	200,000	—	23,833	135 bps	Variable
Fannie Mae repurchase agreement, open maturity	—	325,000	156,152	120 bps	Variable
	<u>\$850,000</u>	<u>\$ 325,000</u>	<u>\$ 257,969</u>		

BPF is required to meet a number of financial covenants, including maintaining a minimum of \$15.0 million of cash and cash equivalents. BPF was in compliance with all covenants on June 30, 2017 and December 31, 2016 and for the six months ended June 30, 2017 and 2016.

(11) Financial Guarantee Liability

BPF shares risk of loss for loans originated under the Fannie Mae DUS and Freddie TAH programs and could incur losses in the event of defaults or foreclosure of these loans. Under the guarantee, BPF's maximum contingent liability to the extent of actual losses incurred is approximately 33% of the outstanding principal balance on Fannie Mae DUS or Freddie TAH loans. Risk sharing percentages are established on a loan by loan basis when originated with most loans at 33% and "modified" loans at lower percentages. Under certain circumstances, risk sharing percentages can be revised subsequent to origination or BPF could be required to repurchase the loan. In the event of a loss resulting from a catastrophic event that is not required to be covered by borrowers' insurance policies, BPF can recover the loss under its mortgage impairment insurance policy. Any potential recovery is subject to the policy's deductibles and limits (see Note 18).

At June 30, 2017, the credit risk loans being serviced by BPF on behalf of Fannie Mae and Freddie Mac had outstanding principal balances of approximately \$18.0 billion with a maximum potential loss of approximately \$5.1 billion, of which \$1.3 billion is covered by the Credit Enhancement Agreement (see Note 7).

At December 31, 2016, the credit risk loans being serviced by BPF on behalf of Fannie Mae and Freddie Mac had outstanding principal balances of approximately \$16.9 billion with a maximum potential loss of approximately \$4.7 billion, of which \$1.6 billion is covered by the Credit Enhancement Agreement (see Note 7).

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At June 30, 2017 and December 31, 2016, the estimated liability under the guarantee liability was as follows (in thousands):

Financial guarantee liability (in thousands)	
Balance at December 31, 2015	\$(288)
Increase to provision	(125)
Balance at December 31, 2016	<u>\$(413)</u>
Reversal of provision	213
Balance at June 30, 2017	<u>\$(200)</u>

In order to monitor and mitigate potential losses, BPF uses an internally developed loan rating scorecard for determining which loans meet BPF's criteria to be placed on a watchlist. BPF also calculates default probabilities based on internal ratings and expected losses on a loan by loan basis. This methodology uses a number of factors including, but not limited to, debt service coverage ratios, collateral valuation, the condition of the underlying assets, borrower strength and market conditions.

See Note 7 for further explanation of credit protection provided by DB Cayman. The provisions for risk sharing in the accompanying consolidated statements of operations was as follows (in thousands):

	For the six months ended	
	June 30, 2017	June 30, 2016
Provisions for risk-sharing obligations from:		
Increase (decrease) to financial guarantee liability	\$ (213)	\$ 244
Decrease (increase) to credit enhancement receivable	144	74
Increase (decrease) to contingent liability	6	7
Total expense	<u>\$ (63)</u>	<u>\$ 325</u>

(12) Concentrations of Credit Risk

The lending activities of BPF create credit risk in the event that counterparties do not fulfill their contractual payment obligations. In particular, BPF is exposed to credit risk related to the Fannie Mae DUS and Freddie Mac TAH loans (see Note 11). As of June 30, 2017, 28% of \$5.1 billion of the maximum loss (see Note 11) was for properties located in California. As of December 31, 2016, 29% of \$4.7 billion of the maximum loss (see Note 11) was for properties located in California.

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(13) Commitments, Contingencies and Litigation

At June 30, 2017 and December 31, 2016, BPF was committed to fund approximately \$311 million and \$207 million, respectively, which is the total remaining draws on construction loans originated by BPF under the HUD 221(d)4, 220 and 232 programs, rate locked loans that have not been funded, forward commitments as well as the funding for credit facilities. BPF also has corresponding commitments to sell these loans to various investors as they are funded.

BPF leases office space in a number of offices under non-cancelable operating leases. Future minimum rental payments under the terms of the leases are (in thousands):

	As of June 30, 2017
2017	\$ 1,433
2018	2,109
2019	1,072
2020	1,095
2021	1,123
Thereafter	6,480
Total	\$ 13,312

Rent expense is included in Other operating expense in the accompanying consolidated statements of operations (in thousands):

	For the six months ended	
	June 30, 2017	June 30, 2016
Rent expense	\$ 1,578	\$ 1,482

Legal accruals are established when a material legal liability is both probable and reasonably estimable. Once established, accruals are adjusted when there is more information available or when an event occurs requiring change. As of June 30, 2017 and December 31, 2016, the Company was not subject to any material litigation.

(14) Related Party Transactions

BPF's parent, CCRE, is a real estate finance company that is principally engaged in the origination, pooling and securitization of commercial mortgage loans. Loans are referred to BPF by CCRE (and other entities affiliated with CCRE) and BPF refers loans to CCRE (and other entities affiliated with CCRE). Revenue from these referrals was recognized in Gains from mortgage banking activities, net in the accompanying consolidated statements of operations as follows (in thousands):

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	For the six months ended	
	June 30, 2017	June 30, 2016
Loans referred to BPF by CCRE and affiliates, net	\$ 18,791	\$ 15,383
Loans referred to CCRE and affiliates by BPF, net	—	338
Total revenue	\$ 18,791	\$ 15,721

The above fees are net of broker fees and commissions to CCRE (and other entities affiliated with CCRE) of \$4.0 million for the six months ended June 30, 2017 and \$3.1 million for the six months ended June 30, 2016.

On March 11, 2015, BPF and CCRE entered into a note receivable/payable that allows for advances to or from CCRE at an interest rate of 1 month LIBOR plus 1.0%. As of June 30, 2017, there was \$130.0 million of outstanding advances due from CCRE on the note and this balance is included in Due from affiliates in the accompanying consolidated balance sheet. As of December 31, 2016, there was \$690.0 million of outstanding advances due to CCRE on the note and this balance is included in Due to affiliates in the accompanying consolidated balance sheet. BPF recognized the following in the accompanying consolidated statements of operations (in thousands):

	For the six months ended		Statement of Income
	June 30, 2017	June 30, 2016	Location
Interest income	\$ 218	\$ 73	Other interest income
Interest expense	2,428	149	Interest expense - warehouse

For the six months ended June 30, 2017, BPF purchased the primary servicing rights for \$0.3 billion of loans originated by CCRE for \$0.6 million. BPF also services loans for CCRE on a “fee for service” basis, generally prior to a loan’s sale or securitization, and for which no MSR is recognized. The Company recognized \$1.9 million for the six months ended June 30, 2017 and \$1.8 million for the six months ended June 30, 2016 as servicing revenue (excludes interest and placement fees) from loans purchased from CCRE on a “fee for service” basis in Servicing fees in the accompanying consolidated statements of operations .

For the year ended December 31, 2016, BPF purchased the primary servicing rights for \$2.8 billion of loans originated by CCRE for \$3.9 million.

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CCRE charges BPF for certain administrative services, including accounting, legal, treasury, human resources, risk management, and facilities management, CCRE and its affiliates provide to BPF. BPF was charged \$0.2 million and \$0.2 million for the six months ended June 30, 2017 and 2016, respectively. These amounts are included in Other operating expenses in the accompanying consolidated statement of operations.

(15) Compensation

Origination commissions to BPF's originators are calculated based on contractual terms. This expense is recognized in Personnel expenses within the consolidated statements of operations. The Company recognized compensation expense of \$26.3 million for the six months ended June 30, 2017 and \$14.0 million for the six months ended June 30, 2016 for origination commissions.

The Company may pay certain bonuses in the form of deferred cash compensation awards, which generally vest over a future service period. This expense is recognized in Personnel expenses within the consolidated statements of operations. The Company recognized compensation expense of \$0.4 million for the six months ended June 30, 2017 and \$0.8 million for the six months ended June 30, 2016 related to deferred cash compensation awards. As of June 30, 2017 and December 31, 2016, the total liability for the deferred cash compensation awards was \$2.2 million and \$2.6 million, respectively, and is included in Accounts payable and accrued expenses in the consolidated balance sheet. As of June 30, 2017 and December 31, 2016, the total notional value of deferred cash compensation was approximately \$3.8 million and \$4.5 million, respectively.

Certain cash bonus awards are paid subsequent to the balance sheet date and require employee service for a period of time subsequent to payment. This expense is recognized utilizing the graded vesting amortization method in Personnel expenses within the consolidated statements of operations. The Company recognized compensation expense of \$5.5 million for the six months ended June 30, 2017 and \$4.2 million for the six months ended June 30, 2016, for certain cash bonus awards.

The Company enters into various agreements with certain employees whereby these individuals receive loans that may be forgiven over a period of time. The forgivable portion of these loans is recognized as compensation expense over the life of the loan (typically 2 to 3 years). As of June 30, 2017 and December 31, 2016, the aggregate unamortized balance of these loans was \$3.0 million and \$2.2 million, respectively, which is included in Other assets in the consolidated balance sheet. The amortization expense for these loans is \$1.3 million for the six months ended June 30, 2017 and \$0.7 million for the six months ended June 30, 2016 which is included in Personnel expenses in the consolidated statements of operations.

(16) Escrow and Custodial Funds

In conjunction with the servicing of multi-family and commercial loans, BPF holds escrow and other custodial funds. Escrow funds are held at unaffiliated financial institutions generally in the form of cash and cash equivalents. These funds amounted to approximately \$1.6 billion and \$1.1 billion, as of June 30, 2017 and December 31, 2016, respectively. These funds are held for the benefit of BPF's borrowers and are segregated in custodial bank accounts. These amounts are excluded from the assets and liabilities of the Company.

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(17) Fair Value of Financial Instruments

ASC 820, *Fair Value Measurement*, requires the disclosure of fair value information about financial instruments for which it is practical to estimate that value, whether or not the instrument is recognized on the balance sheet. Quoted market prices, when available, are used as the measure of fair value. In cases where quoted market prices are not available, fair values are derived by management based on present value estimates of anticipated cash flows.

These derived fair values are significantly affected by assumptions used, principally the timing of future cash flows and the discount rate. Because assumptions are inherently subjective in nature, the estimated fair values cannot be substantiated by comparison to independent market quotes and, in many cases, these estimated fair values may not necessarily be realized in an immediate sale or settlement of the instrument.

The following table represents the Company's fair value hierarchy for those assets and liabilities measured at fair value on a recurring basis as (in thousands):

As of June 30, 2017				
	Level 1	Level 2	Level 3	Total
Assets:				
Loans held for sale	\$ —	\$ 933,850	\$ —	\$ 933,850
Derivative assets	—	—	19,265	19,265
Total assets	\$ —	\$ 933,850	\$ 19,265	\$ 953,115
Liabilities:				
Derivative liabilities	\$ —	\$ —	8,699	\$ 8,699
Contingent liability	—	—	10,607	10,607
Total liabilities	\$ —	\$ —	\$ 19,306	\$ 19,306
As of December 31, 2016				
	Level 1	Level 2	Level 3	Total
Assets:				
Loans held for sale	\$ —	\$ 1,071,836	\$ —	\$ 1,071,836
Derivative assets	—	—	19,924	19,924
Total assets	\$ —	\$ 1,071,836	\$ 19,924	\$ 1,091,760
Liabilities:				
Derivative liabilities	\$ —	\$ —	9,670	\$ 9,670
Contingent liability	—	—	10,390	10,390
Total liabilities	\$ —	\$ —	\$ 20,060	\$ 20,060

There were no transfers between level 1, 2 and level 3 for the six months ended June 30, 2017 and 2016.

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Derivative instruments are outstanding for short periods of time (generally less than 60 days). A roll forward of assets and liabilities (level 3) that require valuation based upon significant unobservable inputs, is presented below (in thousands):

Fair Value Measurements Using Significant Unobservable Inputs		
	Derivative assets and liabilities, net	Contingent liability
Balance at December 31, 2015	\$ 6,300	\$ 10,018
Settlements	(6,300)	—
Net unrealized gains (losses) recorded in earnings	10,254	(372)
Balance at December 31, 2016	\$ 10,254	\$ 10,390
Balance at December 31, 2016	\$ 10,254	\$ 10,390
Settlements	(10,254)	—
Net unrealized gains (losses) recorded in earnings	10,566	(217)
Balance at June 30, 2017	\$ 10,566	\$ 10,607

The following table presents information about significant unobservable inputs used in the measurement of the fair value of the Company's Level 3 assets and liabilities (in thousands):

June 30, 2017				
Level 3 assets and liabilities	Assets	Liabilities	Significant Unobservable Inputs	Range of Significant Unobservable Inputs
Derivative assets and liabilities:				
-Forward sale contracts	\$ 13,292	\$ 2,160	Counterparty credit risk	—
-Rate lock commitments	5,973	6,539	Counterparty credit risk	—
-Contingent liability	—	10,607	Discount rate	4.24%
Total	\$ 19,265	\$ 19,306		

December 31, 2016				
Level 3 assets and liabilities	Assets	Liabilities	Significant Unobservable Inputs	Range of Significant Unobservable Inputs
Derivative assets and liabilities:				
-Forward sale contracts	\$ 2,100	\$ —	Counterparty credit risk	—
-Rate lock commitments	17,824	9,670	Counterparty credit risk	—
-Contingent liability	—	10,390	Discount rate	4.23%
Total	\$ 19,924	\$ 20,060		

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The carrying amounts and the fair value of the Company's financial instruments as of June 30, 2017 and December 31, 2016, are presented below (in thousands):

	June 30, 2017		December 31, 2016	
	Carrying Amount	Fair Value	Carrying Amount	Fair Value
Assets:				
Cash and cash equivalents	\$ 61,458	\$ 61,458	\$ 33,589	\$ 33,589
Restricted cash	52,111	52,111	50,927	50,927
Loans held for sale	933,850	933,850	1,071,836	1,071,836
Derivative assets	19,265	19,265	19,924	19,924
Total	<u>\$1,066,684</u>	<u>\$1,066,684</u>	<u>\$1,176,276</u>	<u>\$1,176,276</u>
Liabilities				
Derivative liabilities	\$ 8,699	\$ 8,699	\$ 9,670	\$ 9,670
Warehouse notes payable	933,909	933,909	257,969	257,969
Total	<u>\$ 942,608</u>	<u>\$ 942,608</u>	<u>\$ 267,639</u>	<u>\$ 267,639</u>

The following methods and assumptions were used to estimate the fair value of each asset and liability for which it is practicable to estimate that value:

- Cash and cash equivalents and Restricted cash and cash equivalents – The carrying amounts approximate fair value due to the highly liquid nature and short maturity of these instruments. (Level 1)
- Loans held for sale – Consists of originated loans that have been sold to third party investors at a fixed price and are generally settled within 30 days from the date of funding. (Level 2)
- Derivatives – Consists of rate lock commitments and forward sale contracts. These instruments are valued using discounted cash flow models based on changes in market interest rates and other observable market data. (Level 3)
- Mortgage servicing rights, net—As noted in Note 2 and Note 9, MSR are initially recorded at fair value and then are subsequently measured using the amortization method. MSR are assessed for impairment at least annually and a valuation allowance is established if any class or strata within a class of MSR is deemed to be impaired. At June 30, 2017, certain MSR were deemed to be impaired by a total of \$5,481 and as a result are represented on the consolidated balance sheet at fair value. The fair value of the MSR measured on a non-recurring basis at June 30, 2017 was \$74,748 and are considered to be Level 3 within the fair value hierarchy.

**BERKELEY POINT FINANCIAL LLC
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Notes to Consolidated Financial Statements (Unaudited)

At December 31, 2016, certain MSRs were deemed to be impaired by a total of \$7,742 and as a result are represented on the consolidated balance sheet at fair value. The fair value of the MSRs measured on a non-recurring basis at December 31, 2016 was \$59,141 and are considered to be Level 3 within the fair value hierarchy.

- Warehouse notes payable – Consists of borrowings under warehouse line agreements. The borrowing rates on the warehouse lines are based short term London Interbank Offered Rates (LIBOR) plus applicable margins. The carrying amounts approximate fair value due to the short term maturity of these instruments. (Level 2)
- Contingent liability – Consists of the future liability under the CEA to DB Cayman. The amount due to DB Cayman in March of 2021 is estimated using the financial guaranty liability (see Note 11) and the credit enhancement receivable (see Note 7) and discounted to the balance sheet date using a discount rate equivalent to an estimate of the rate the Company would pay for unsecured debt. (Level 3)

Fair value of derivative instruments and loans held for sale

In the normal course of business, BPF enters into contractual commitments to originate and sell loans at fixed prices with fixed expiration dates. The commitments become effective when the borrowers rate lock their interest rate within time frames established by BPF. Borrowers are evaluated for creditworthiness prior to this commitment. Market risk arises if interest rates move adversely between the time of the rate lock by the borrower and the date the loan is sold to an investor.

To mitigate the effect of the interest rate risk inherent in providing rate lock commitments to borrowers, BPF enters a sale commitment with an investor simultaneously with the rate lock commitment with the borrower. The sale contract with the investor locks in an interest rate and price for the sale of the loan. The terms of the contract with the investor and the rate lock with the borrower are matched in substantially all respects, with the objective of eliminating interest rate risk to the extent practical. Sale commitments with the investors have an expiration date that is longer than our related commitments to the borrower to allow, among other things, for the closing of the loan and processing of paperwork to deliver the loan into the sale commitment.

Both the rate lock commitments to borrowers and the forward sale contracts to investors are derivatives and, accordingly, are marked to fair value through the statements of operations. The fair value of BPF's rate lock commitments to borrowers and loans held for sale and the related input levels includes, as applicable:

- The assumed gain/loss of the expected loan sale to the investor;
- The expected net future cash flows associated with servicing the loan ;
- The effects of interest rate movements between the date of the rate lock and the balance sheet date; and

**BERKELEY POINT FINANCIAL LLC
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Notes to Consolidated Financial Statements (Unaudited)

- The nonperformance risk of both the counterparty and BPF.

The fair value of BPF's forward sales contracts to investors considers effects of interest rate movements between the trade date and the balance sheet date. The market price changes are multiplied by the notional amount of the forward sales contracts to measure the fair value.

The gain/loss considers the amount that BPF has discounted the price to the borrower from par for competitive reasons, if at all, and the expected net cash flows from servicing to be received upon sale of the loan. The fair value of the expected net future cash flows associated with servicing the loan is calculated pursuant to the valuation techniques described in Note 9.

To calculate the effects of interest rate movements, BPF uses applicable U.S. Treasury prices, and multiplies the price movement between the rate lock date and the balance sheet date by the notional loan commitment amount.

The fair value of BPF's forward sales contracts to investors considers the market price movement of the same type of security between the trade date and the balance sheet date. The market price changes are multiplied by the notional amount of the forward sales contracts to measure the fair value.

The fair value of BPF's rate lock commitments and forward sale contracts is adjusted to reflect the risk that the agreement will not be fulfilled. The Company's exposure to nonperformance in rate lock and forward sale contracts is represented by the contractual amount of those instruments. Given the credit quality of our counterparties, the short duration of rate lock commitments and forward sales contracts, and the Company's historical experience with the agreements, management does not believe the risk of nonperformance by the Company's counterparties to be significant.

The fair value of the Company's loans held for sale include the gain/loss for pricing discounts and expected net future cash flows and the effect of interest rate movements as described above.

**BERKELEY POINT FINANCIAL LLC
AND SUBSIDIARIES**

Notes to Consolidated Financial Statements (Unaudited)

	Fair Value Adjustment Components				Balance Sheet Location		
	Notional or Principal Amount	Assumed Gain (Loss) on Sale	Interest Rate Movement Effect	Total Fair Value Adjustment	Derivative Contract Assets	Derivative Contract Liabilities	Fair Value Adjustment to Loans Held for Sale
June 30, 2017							
Rate lock commitments	\$ 248,620	\$ 5,973	\$ (6,539)	\$ (566)	\$ 5,973	\$ (6,539)	\$ —
Forward sale contracts	1,182,529	—	11,132	11,132	13,292	(2,160)	—
Loans held for sale	933,909	4,534	(4,593)	(59)	—	—	(59)
		<u>\$ 10,507</u>	<u>\$ —</u>	<u>\$ 10,507</u>	<u>\$ 19,265</u>	<u>\$ (8,699)</u>	<u>\$ (59)</u>

	Fair Value Adjustment Components				Balance Sheet Location		
	Notional or Principal Amount	Assumed Gain (Loss) on Sale	Interest Rate Movement Effect	Total Fair Value Adjustment	Derivative Contract Assets	Derivative Contract Liabilities	Fair Value Adjustment to Loans Held for Sale
December 31, 2016							
Rate lock commitments	\$ 201,603	\$ 2,100	\$ (9,670)	\$ (7,570)	\$ 2,100	\$ (9,670)	\$ —
Forward sale contracts	1,276,032	148	17,676	17,824	17,824	—	—
Loans held for sale	1,074,429	5,413	(8,006)	(2,593)	—	—	(2,593)
		<u>\$ 7,661</u>	<u>\$ —</u>	<u>\$ 7,661</u>	<u>\$ 19,924</u>	<u>\$ (9,670)</u>	<u>\$ (2,593)</u>

(18) Mortgage Bankers Blanket Bond and Mortgage Impairment Policy

BPF is insured under a fidelity blanket bond. BPF is insured against certain losses due to dishonest employees and, in some cases, certain third parties acting on behalf of BPF. Claims on this type of loss were subject to a \$150,000 deductible for the six months ended June 30, 2017 and 2016. BPF is also insured under a mortgage errors and omissions policy covering losses due to errors and omissions relating to mortgagee interest liability to mortgagor and liability to investors. Claims on this type of loss were subject to a \$150,000 deductible for the six months ended June 30, 2017 and 2016.

BPF is insured under a mortgage protection insurance policy. The policy covers loans that BPF services under its Fannie Mae DUS and Freddie Mac TAH programs. The policy covers losses that BPF may incur under its risk sharing provisions with Fannie Mae and Freddie Mac (see Note 11) that are a result of catastrophic events that are not required to be covered by the borrowers' insurance policies. For the six months ended June 30, 2017 and 2016, the coverage limit was \$25 million. As of June 30, 2017, claims on this policy were subject to a \$50,000 deductible except for flood and earthquake which were subject to the following deductibles:

- Flood – \$500,000

**BERKELEY POINT FINANCIAL LLC
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Notes to Consolidated Financial Statements (Unaudited)

- Earthquake—\$500,000 for California
- Earthquake—\$500,000 for certain high risk counties in 9 other states as outlined in the policy

BPF recognized approximately \$0.3 million and \$0.3 million in Other operating expenses in the accompanying consolidated statement of operations for the above policies for the six months ended June 30, 2017 and 2016.

(19) Subsequent Events

On July 17, 2017, CCRE entered into an agreement to sell 100% of the membership interest in BPF to BGC Partners, Inc., an affiliate of CCRE.

The Company has evaluated subsequent events through the date at which the consolidated financial statements were available to be issued, and determined that, other than the transaction noted above, there are no other items to account for or disclose.

**BERKELEY POINT FINANCIAL LLC
AND SUBSIDIARIES**

Consolidated Financial Statements

As of December 31, 2016 and 2015 (Successor) and for the years ended
December 31, 2016 and 2015 (Successor) and for the periods April 10, 2014
through December 31, 2014 (Successor) and January 1, 2014
through April 9, 2014 (Predecessor)

**BERKELEY POINT FINANCIAL LLC
AND SUBSIDIARIES**

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Independent Auditors' Report

Member
Berkeley Point Financial LLC:

We have audited the accompanying consolidated balance sheets of Berkeley Point Financial LLC and subsidiaries as of December 31, 2016 and 2015 (Successor), and the related consolidated statements of operations for the years ended December 31, 2016 and 2015 (Successor) and for the periods April 10, 2014 through December 31, 2014 (Successor) and January 1, 2014 through April 9, 2014 (Predecessor), changes in member's capital for the period January 1, 2014 through April 9, 2014 (Predecessor), changes in member's capital for the years ended December 31, 2016 and 2015 (Successor) and for the period April 10, 2014 through December 31, 2014 (Successor), and cash flows for the years ended December 31, 2016 and 2015 (Successor) and for the periods April 10, 2014 through December 31, 2014 (Successor) and January 1, 2014 through April 9, 2014 (Predecessor). These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

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

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position Berkeley Point Financial LLC and subsidiaries as of December 31, 2016 and 2015, and the results of their operations and their cash flows for the years ended December 31, 2016 and 2015 (Successor) and for the periods April 10, 2014 through December 31, 2014 (Successor) and January 1, 2014 through April 9, 2014 (Predecessor) in conformity with U.S. generally accepted accounting principles.

/s/ KPMG LLP
August 23, 2017

**BERKELEY POINT FINANCIAL LLC
AND SUBSIDIARIES**
Consolidated Balance Sheets
(In thousands)

Assets	December 31, 2016	December 31, 2015
Current assets:		
Cash and cash equivalents	\$ 33,589	\$ 100,894
Restricted cash and cash equivalents	50,927	48,742
Loans held for sale, at fair value	1,071,836	359,109
Derivative assets	19,924	9,531
Other current assets	13,171	10,181
Total current assets:	1,189,447	528,457
Mortgage servicing rights, net	339,816	263,913
Credit enhancement receivable	156	257
Goodwill	191	191
Other intangible assets, net	5,465	5,481
Other assets	4,124	2,576
Total assets	<u>\$ 1,539,199</u>	<u>\$ 800,875</u>
Liabilities and Member's Capital		
Current liabilities:		
Accounts payable and accrued expenses	\$ 32,305	\$ 23,336
Due to affiliates	691,509	1,225
Borrower deposits	6,102	3,745
Derivative liabilities	9,670	3,231
Warehouse notes payable	257,969	359,634
Total current liabilities:	997,555	391,171
Financial guarantee liability	413	288
Credit enhancement deposit	25,000	25,000
Contingent liability	10,390	10,018
Other liabilities	26,039	19,797
Total liabilities	1,059,397	446,274
Member's capital	479,802	354,601
Total liabilities and member's capital	<u>\$ 1,539,199</u>	<u>\$ 800,875</u>

See accompanying notes to consolidated financial statements.

**BERKELEY POINT FINANCIAL LLC
AND SUBSIDIARIES**

Consolidated Statements of Operations
(In thousands)

	Successor January 1, 2016 - December 31, 2016	Successor January 1, 2015 - December 31, 2015	Successor April 10, 2014 - December 31, 2014	Predecessor January 1, 2014 - April 9, 2014
Revenues				
Gains from mortgage banking activities, net	\$ 183,801	\$ 113,357	\$ 79,377	\$ 15,224
Servicing fees	87,671	74,356	49,053	16,705
Warehouse interest income	21,176	13,772	7,233	1,635
Other interest income	429	327	112	31
Other	—	—	59	—
Total revenues	<u>293,077</u>	<u>201,812</u>	<u>135,834</u>	<u>33,595</u>
Expenses				
Personnel expenses	77,827	62,622	47,544	17,365
Amortization and depreciation	58,848	55,130	34,002	12,130
Interest expense—warehouse	13,728	9,670	5,265	1,304
Interest expense—corporate	366	460	585	1,128
Provision for risk-sharing obligations	231	(81)	48	—
Other operating expenses	16,796	16,730	10,172	3,725
Total expenses	<u>167,796</u>	<u>144,531</u>	<u>97,616</u>	<u>35,652</u>
Income (loss) before income taxes	125,281	57,281	38,218	(2,057)
Income tax expense	80	123	90	5
Net income (loss)	<u>\$ 125,201</u>	<u>\$ 57,158</u>	<u>\$ 38,128</u>	<u>\$ (2,062)</u>

See accompanying notes to consolidated financial statements.

**BERKELEY POINT FINANCIAL LLC
AND SUBSIDIARIES**
Consolidated Statement of Changes in Members' Capital
(In thousands)

Predecessor

Balance at December 31, 2013	\$214,988
Net loss	(2,062)
Distributions	(5,000)
Non-cash equity compensation	1,601
Contributions	4,709
Balance at April 9, 2014	<u>\$214,236</u>

See accompanying notes to consolidated financial statements.

**BERKELEY POINT FINANCIAL LLC
AND SUBSIDIARIES**
Consolidated Statements of Changes in Member's Capital
(In thousands)

Successor

Opening balance at April 10, 2014	\$214,236
Net income	38,128
Fair value adjustments for push-down accounting	45,079
Balance at December 31, 2014	\$297,443
Net income	57,158
Balance at December 31, 2015	\$354,601
Net income	125,201
Balance at December 31, 2016	<u>\$479,802</u>

See accompanying notes to consolidated financial statements.

**BERKELEY POINT FINANCIAL LLC
AND SUBSIDIARIES**
Consolidated Statements of Cash Flows
(In thousands)

	Successor January 1, 2016 - December 31, 2016	Successor January 1, 2015 - December 31, 2015	Successor April 10, 2014 - December 31, 2014	Predecessor January 1, 2014 - April 9, 2014
Cash flows from operating activities:				
Net income (loss)	\$ 125,201	\$ 57,158	\$ 38,128	\$ (2,062)
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:				
Gain on originated mortgage servicing rights	(126,547)	(71,873)	(40,636)	(7,573)
Loss on sale of mortgage servicing rights	—	—	17	—
Amortization and depreciation	58,848	55,130	34,002	12,130
Amortization of deferred financing costs	1,237	1,153	738	299
Unrealized losses (gains) on loans held for sale	1,537	2,458	(2,209)	(277)
Loan originations—loans held for sale	(7,691,573)	(5,210,160)	(3,262,210)	(590,050)
Loan sales—loans held for sale	6,977,308	5,633,773	2,592,378	704,344
Non-cash compensation expense	—	—	—	1,601
(Increase) decrease in operating assets:				
Restricted cash and cash equivalents	(2,185)	(335)	(6,190)	(520)
Other assets	(4,272)	(1,018)	256	(1,766)
Derivative assets	(10,393)	2,564	(2,372)	10,683
Credit enhancement receivable	101	2,197	249	714
Increase (decrease) in operating liabilities:				
Accounts payable and accrued expenses	15,391	5,219	16,638	(8,960)
Due to affiliates	284	(728)	1,954	—
Borrower deposits	2,357	(3,228)	5,112	(221)
Derivative liabilities	6,439	(1,470)	(2,445)	(8,217)
Financial guarantee liability	125	(2,429)	(172)	(714)
Contingent liability	372	515	556	971
Net cash provided by (used in) operating activities	<u>(645,770)</u>	<u>468,926</u>	<u>(626,206)</u>	<u>110,382</u>
Cash flows from investing activities:				
Purchase of fixed assets	(865)	(454)	(104)	(61)
Advances to CCRE	(175,000)	(265,000)	—	—
Repayments from CCRE	175,000	265,000	—	—
Proceeds from sale of mortgage servicing rights	—	—	160	—
Purchase of mortgage servicing rights	(7,676)	(9,259)	(7,418)	—
Net cash (used in) investing activities	<u>(8,541)</u>	<u>(9,713)</u>	<u>(7,362)</u>	<u>(61)</u>
Cash flows from financing activities:				
Proceeds from warehouse notes payable	7,691,573	5,210,160	3,262,210	476,105
Principal payments on warehouse notes payable	(7,793,238)	(5,628,709)	(2,597,972)	(590,400)
Principal payments on term loan	—	—	—	(20,000)
Advances from CCRE	1,506,000	440,000	—	—
Repayments to CCRE	(816,000)	(440,000)	—	—
Payment of deferred financing costs	(1,329)	(831)	(1,233)	—
Contributions	—	—	—	4,709
Distributions	—	—	—	(5,000)
Net cash provided by (used in) financing activities	<u>587,006</u>	<u>(419,380)</u>	<u>663,005</u>	<u>(134,586)</u>
Increase (decrease) in cash and cash equivalents	(67,305)	39,833	29,437	(24,265)
Cash and cash equivalents at beginning of period	100,894	61,061	31,624	55,889
Cash and cash equivalents at end of period	<u>\$ 33,589</u>	<u>\$ 100,894</u>	<u>\$ 61,061</u>	<u>\$ 31,624</u>
Supplemental disclosure of cash flow information:				
Cash paid during the period for:				
Interest	\$ 11,693	\$ 8,838	\$ 3,666	\$ 1,535
Taxes	\$ 79	\$ 131	\$ 82	\$ 10

See accompanying notes to consolidated financial statements.

**BERKELEY POINT FINANCIAL LLC
AND SUBSIDIARIES**
Notes to Consolidated Financial Statements

(1) Organization and Nature of Business

Berkeley Point Financial LLC (with its subsidiaries, the Company or BPF) is a Delaware limited liability company and wholly owns Berkeley Point Capital Holdings LLC (BPCH), also a Delaware limited liability company. BPCH wholly owns two subsidiaries, Berkeley Point Capital LLC (BPC) and Berkeley Point Interim Lending LLC (BPIL), both Delaware limited liability companies. BPC is the sole owner of one subsidiary, Berkeley Point Intermediary Inc. (BPII), a Delaware Corporation.

On April 10, 2014, BPF became a wholly owned subsidiary of Cantor Commercial Real Estate Company, L.P. (CCRE) when 100% of the membership interests in BPF were sold to CCRE in return for cash and limited partnership units in CCRE. The fair value of the consideration paid was allocated to tangible and intangible assets acquired and liabilities assumed based on their estimated fair values as of the sale date (see Note 3).

For the period January 1, 2014 through April 9, 2014, the membership interests in BPF were owned by other investors (not affiliated with CCRE) and employees of BPF.

Nature of Business

BPF, through its subsidiary BPC, is principally engaged in the origination, funding, sale and servicing of multi-family and commercial mortgage loans. After sale, BPF generally retains the rights to service the loans and may share in the risk of loss (see Note 11). Loans are sourced from a nationwide network of originators and correspondents. In the normal course of business, BPF accepts loan applications and application fees, manages the due diligence process, issues loan commitments, accepts commitment deposits, and closes loans. Loans are underwritten and processed according to guidelines set by BPF and various government sponsored entities. Initial funding for the loans is provided by warehouse line relationships.

BPF, through its subsidiary BPC, is approved to participate in a number of loan origination, sale and servicing programs operated by government sponsored enterprises (GSEs). The GSEs include the Federal Housing Authority (FHA), Government National Mortgage Association (GNMA), Federal Home Loan Mortgage Corporation (Freddie Mac) and Fannie Mae.

(2) Summary of Significant Accounting Policies

(a) *Basis of Presentation*

The accompanying consolidated financial statements are prepared in accordance with accounting principles generally accepted in the United States of America (U.S. GAAP).

The consolidated financial statements include the accounts of BPF, BPCH, BPIL, BPC and BPII (collectively, the Company). All material intercompany balances and transactions have been eliminated in consolidation.

**BERKELEY POINT FINANCIAL LLC
AND SUBSIDIARIES**
Notes to Consolidated Financial Statements

(b) Recently Issued and Adopted Accounting Pronouncements

In May 2014, the Financial Accounting Standards Board (FASB) issued ASU No. 2014-09, Revenue from Contracts with Customers, which relates to how an entity recognizes the revenue it expects to be entitled to for the transfer of promised goods and services to customers. The ASU will replace certain existing revenue recognition guidance. The guidance, as stated in ASU No. 2014-09, was initially effective beginning on January 1, 2017. In August 2015, the FASB issued ASU No. 2015-14, Revenue from Contracts with Customers—Deferral of Effective Date, which defers the effective date by one year, with early adoption on the original effective date permitted. The standard permits the use of either the retrospective or cumulative effect transition method. The Company is currently evaluating the impact of the new guidance on its consolidated financial statements.

In February 2016, the FASB issued ASU No. 2016-02, Leases (Topic 842). This ASU requires lessees to recognize a right-of-use asset and lease liability for all leases with terms of more than 12 months. Recognition, measurement and presentation of expenses will depend on classification as a finance or operating lease. The amendments also require certain quantitative and qualitative disclosures. Accounting guidance for lessors is largely unchanged. The guidance is effective beginning January 1, 2019, with early adoption permitted. The Company is currently evaluating the impact of the new guidance on its consolidated financial statements.

In June of 2016, the FASB issued ASU 2016-13, Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments (“ASU 2016-13”). ASU 2016-13 represents a significant change to the incurred loss model currently used to account for credit losses. The ASU requires an entity to estimate the credit losses expected over the life of the credit exposure upon initial recognition of that exposure. The expected credit losses consider historical information, current information, and reasonable and supportable forecasts, including estimates of prepayments. Exposures with similar risk characteristics are required to be grouped together when estimating expected credit losses. The initial estimate and subsequent changes to the estimated credit losses are required to be reported in current earnings in the income statement and through an allowance in the balance sheet. ASU 2016-13 is applicable to financial assets subject to credit losses and measured at amortized cost and certain off-balance sheet credit exposures. The ASU will modify the way the Company estimates its financial guarantee liability. The effective date for the ASU for the Company is January 1, 2020, with early adoption permitted on January 1, 2019. The Company is in the process of determining the significance of the impact the ASU will have on its consolidated financial statements and the timing of when it will adopt the standard.

In August 2016, the FASB issued ASU 2016-15, Statement of Cash Flows (Topic 230)—Classification of Certain Cash Receipts and Cash Payments (“ASU 2016-15”). ASU 2016-15 changes how cash receipts and cash payments are presented and classified in the statement of cash flows. The new standard will become effective for the Company beginning January 1, 2018 and will require adoption on a retrospective basis. The Company is currently evaluating the impact of the new guidance on its consolidated financial statements.

**BERKELEY POINT FINANCIAL LLC
AND SUBSIDIARIES**
Notes to Consolidated Financial Statements

In November 2016, the FASB issued ASU No. 2016-18, Statement of Cash Flows (Topic 230)—Restricted Cash, which requires that the statement of cash flows explain the change during the period in the total of cash, cash equivalents and amounts generally described as restricted cash or restricted cash equivalents. The new standard will become effective for the Company beginning January 1, 2019 and will require adoption on a retrospective basis. The Company is currently evaluating the impact of the new guidance on its consolidated financial statements.

In January 2017, the FASB issued ASU No. 2017-04, Intangibles—Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment, which eliminates the requirement to determine the fair value of individual assets and liabilities of a reporting unit to measure goodwill impairment. Under the amendments in the new ASU, goodwill impairment testing will be performed by comparing the fair value of the reporting unit with its carrying amount and recognizing an impairment charge for the amount by which the carrying amount exceeds the reporting unit's fair value. The new standard will become effective for the Company beginning January 1, 2021 and will be applied on a prospective basis, and early adoption is permitted. The Company is currently evaluating the impact of the new guidance on its consolidated financial statements.

(c) Use of Estimates

The preparation of these consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of the assets and liabilities, revenues and expenses, and the disclosure of contingent assets and liabilities in these consolidated financial statements. Management believes that the estimates used in preparing these consolidated financial statements are reasonable. Estimates, by their nature, are based on judgement and available information. As such, actual results could differ materially from the estimates included in these consolidated financial statements.

(d) Cash and Cash Equivalents

The Company defines cash and cash equivalents as cash on hand and due from banks. The Company also considers all highly liquid investments with maturities of three months or less to be cash equivalents.

(e) Restricted Cash and Cash Equivalents

Restricted cash represents cash and cash equivalents set aside for amounts pledged for the benefit of Fannie Mae and Freddie Mac to secure BPF's financial guarantee liability.

(f) Loans Held for Sale (LHFS)

BPF maintains commercial mortgage loans for the purpose of sale to GSEs. Prior to funding, BPF enters into an agreement to sell the loans to third party investors at a fixed price. BPF has elected the fair value option to carry LHFS at fair market value. During the period prior to sale, interest income is calculated and recognized in accordance with the terms of the individual loan.

(g) Fair Value Measurements

The fair value of a financial instrument is the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date (the exit price). Fair value measurements do not include transaction costs.

The fair value hierarchy prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and lowest priority to unobservable inputs (Level 3 measurements). The three levels of the fair value hierarchy are described below:

Level 1 Unadjusted quoted prices in active markets that are accessible at the measurement date for identical, unrestricted assets or liabilities

Level 2 Quoted prices in markets that are not considered to be active or financial instruments for which all significant inputs are observable, either directly or indirectly

Level 3 Prices or valuations that require inputs that are both significant to the fair value measurement and unobservable

A financial instrument's level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement.

(h) Derivative Financial Instruments

BPF has loan commitments to extend credit to third parties. The commitments to extend credit are for mortgage loans at a specific rate (rate lock commitments). These commitments generally have fixed expiration dates or other termination clauses and may require a fee. BPF is committed to extend credit to the counterparty as long as there is no violation of any condition established in the commitment contracts.

BPF simultaneously enters into an agreement to deliver such mortgages to third party investors at a fixed price (forward sale contracts).

Both the commitment to extend credit and the forward sale commitment qualify as derivative financial instruments. BPF recognizes all derivatives on the consolidated balance sheet as assets or liabilities measured at fair value. The change in the derivatives fair value is recognized in current period earnings.

(i) Financial Guarantee Liability

BPF recognizes a liability in connection with the guarantee provided to Fannie Mae under the Delegated Underwriting and Servicing Program (DUS) and Freddie Mac under the Targeted Affordable Housing Program (TAH). The financial guarantee liability requires BPF to make payments to the guaranteed party based on borrowers' failure to meet its obligations. The liability is adjusted through provisions charged or reversed through operations.

(j) Credit Enhancement Receivable

DB Cayman (as defined in Note 7) provides significant credit protection for BPF (see Note 7). Probable payments to be received from DB Cayman are recorded on the consolidated balance sheet as Credit enhancement receivable.

(k) Contingent Liability

BPF is obligated to make a payment to DB Cayman on March 9, 2021 (see Note 7) for an amount based on actual financial guarantee payments compared to predetermined thresholds. BPF records this liability at the net present value of the expected payment using a discount rate equivalent to an estimate of the rate the Company would pay for unsecured debt.

(l) Mortgage Servicing Rights (MSR)

BPF initially recognizes and measures the rights to service mortgage loans at fair value and subsequently measures them using the amortization method. BPF recognizes rights to service mortgage loans as separate assets at the time the underlying originated mortgage loan is sold and the value of those rights is included in the determination of the gain on loans held for sale.

Purchased MSRs, including MSRs purchased from CCRE, are initially recorded at fair value.

BPF receives a 3 basis point servicing fee and/or a 0.5 basis point surveillance fee on certain Freddie Mac loans after the loan is securitized in a Freddie Mac pool (Freddie Mac Strip). The Freddie Mac Strip is also recognized at fair value and subsequently measured using the amortization method, but is recognized as a MSR at the securitization date.

MSRs are assessed for impairment, at least on an annual basis, based upon the fair value of those rights as compared to the amortized cost. Fair values are estimated using a valuation model that calculates the present value of the future net servicing cash flows. In using this valuation method, BPF incorporates assumptions that management believes market participants would use in estimating future net servicing income. It is reasonably possible such estimates may change. BPF amortizes the mortgage servicing rights in proportion to, and over the period of, the projected net servicing income. For purposes of impairment evaluation and measurement, BPF stratifies MSRs based on predominant risk characteristics of the underlying loans, primarily by investor type (Fannie Mae/Freddie Mac, FHA/GNMA, CMBS, and other). To the extent that the carrying value exceeds fair value of a specific MSR strata a valuation allowance is established, which is adjusted in the future as the fair value of MSRs increases or decreases. Reversals of valuation allowances cannot exceed the amortized cost.

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(m) Fixed Assets

Furniture, equipment and leasehold improvements are carried at cost less accumulated depreciation. Depreciation is computed on a straight-line basis and is charged to depreciation expense over the life of the lease for leasehold improvements or estimated useful lives of the furniture and equipment (3 to 7 years). Maintenance and repairs are expensed as incurred. Fixed assets are included in Other assets in the accompanying consolidated balance sheet.

(n) Goodwill

The Company recorded goodwill on April 10, 2014 with the purchase of the membership units of BPF by CCRE (see Note 3). Goodwill is tested at least annually for impairment, or more frequently if events or changes in circumstances, such as an adverse change in business climate, indicate that the goodwill may be impaired. There was no impairment during the years ended December 31, 2016 and 2015 and for the period April 10, 2014 to December 31, 2014.

(o) Other Intangible Assets

The Company's other intangible assets at December 31, 2016 are comprised of the value of the BPF's licenses to originate and service loans for the GSEs, office leases and the trade name of "Berkeley Point Capital". These assets are tested at least annually for impairment and there was no impairment during the years ended December 31, 2016 and 2015 and for the periods April 10, 2014 through December 31, 2014 and January 1, 2014 through April 9, 2014.

(p) Comprehensive Income

For the periods presented, comprehensive income equaled net income, therefore a separate statement of comprehensive income is not included in the accompanying consolidated financial statements.

(q) Revenue recognition

Revenue is recognized when it is realized or realizable and earned. This concept is applied to key revenue generating activities of the Company as noted below.

Gains from mortgage banking activities, net

Gains from mortgage banking activities, net are recognized when a derivative asset is recorded upon the commitment to originate a loan with a borrower and sell the loan to an investor. The derivative is recorded at fair value and includes loan origination fees, sales premiums and the estimated fair value of the expected net servicing cash flows. Gains from mortgage banking activities, net are recognized net of related fees and commissions to affiliates or third party brokers. For loans the Company brokers, gains from mortgage banking activities are recognized when the loan is closed.

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Servicing fees

Servicing fees are earned for servicing mortgage loans and are recognized on an accrual basis over the lives of the related mortgage loans. Also included in servicing fees are the fees earned on borrower prepayments, interest and placement fees on borrowers' escrow accounts and other ancillary fees.

(r) *Income Taxes*

The tax status of the Company is a pass-through entity under the provisions of the Internal Revenue Code and various states in which the Company is qualified to do business. As a pass-through entity, the Company is subject to inconsequential federal, state and local income taxes as owners separately account for their pro-rata share of the majority of the Company's items of income, deductions, losses and credits on their individual returns. No provision was made in the accompanying consolidated financial statements for federal, state and local income tax liabilities that are the responsibilities of the individual partners. The Company files income tax returns in the applicable U.S. federal, state and local jurisdictions and generally is subject to examination by the respective jurisdictions for three years from the filing of a tax return.

BPII is a corporation, and as such, is liable for income taxes.

(s) *Reclassification*

Certain prior period balances have been reclassified to be consistent with the current year presentation. The effect of the reclassification on the previously reported consolidated financial statements was not material.

(3) Goodwill and Other Intangible Assets

On April 10, 2014 (Closing Date), CCRE acquired 100% of the membership units of BPF, at which time BPF became a wholly-owned subsidiary of CCRE. In accordance with the Company's accounting policy, the purchase price paid by CCRE has been pushed down to the financial statements of BPF. Under push down accounting, historical assets and liabilities of BPF have been recast to the acquisition date fair value, in accordance with U.S. GAAP.

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BPF recorded the assets and liabilities that were included in the acquisition at fair value. Amounts recorded upon the closing of the acquisition were as follows (in thousands):

<u>Assets acquired and liabilities assumed</u>	<u>Amount</u>
Cash and cash equivalents	\$ 31,624
Restricted cash	42,217
Loans held for sale	113,138
Derivatives	9,723
Credit enhancement receivable	2,703
Mortgage servicing rights	222,438
Accounts receivable and prepaid expenses	10,558
Fixed assets	1,839
GSE licenses	5,390
Origination pipeline	440
Office leases	140
Trade name	50
Goodwill	191
Accounts payable and accrued expenses	(21,350)
Borrower deposits	(1,860)
Derivative liabilities	(7,146)
Warehouse notes payable	(113,944)
Financial guarantee liability	(2,889)
Credit enhancement deposit	(25,000)
Contingent liability	(8,947)
Consideration paid	<u>\$ 259,315</u>

The fair value of the consideration paid was allocated to tangible and intangible assets acquired and liabilities assumed based on their estimated fair values at the Closing Date, with the remaining unallocated amount recognized as goodwill.

Intangible assets acquired include the GSE licenses, the value of the origination pipeline, the value of the "Berkeley Point Capital" trade name and below market office leases. Due to the short turnaround time of loans in the origination pipeline, the value of the origination pipeline was fully amortized in during the period April 10, 2014 through December 31, 2014. The below market office leases are amortized over the remaining period of the underlying leases.

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The following summarizes the Company's other intangible assets and goodwill (in thousands):

	December 31, 2016			Balance sheet location
	Value at Acquisition	Accumulated Amortization	Net Carrying Value	
Amortizing intangible assets:				
Office leases (1)	\$ 140	\$ (114)	\$ 26	Other assets
Non-amortizing intangible assets:				
Goodwill	191	—	191	Goodwill
GSE licenses	5,390	—	5,390	Other assets
Trade name	50	—	50	Other assets
Total	<u>\$ 5,771</u>	<u>\$ (114)</u>	<u>\$ 5,657</u>	

	December 31, 2015			Balance sheet location
	Value at Acquisition	Accumulated Amortization	Net Carrying Value	
Amortizing intangible assets:				
Office leases (1)	\$ 140	\$ (99)	\$ 41	Other assets
Non-amortizing intangible assets:				
Goodwill	191	—	191	Goodwill
GSE licenses	5,390	—	5,390	Other assets
Trade name	50	—	50	Other assets
Total	<u>\$ 5,771</u>	<u>\$ (99)</u>	<u>\$ 5,672</u>	

(1) Amortization expense is included in Other operating expenses in the accompanying consolidated statement of operations.

Future amortization expense for the amortizing intangible assets is as follows (in thousands) as of December 31, 2016:

2017	Office Leases
2018	<u>\$ 17</u>
Total	<u>9</u>
	<u>\$ 26</u>

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(4) Capital and Liquidity Requirements

BPF is subject to various capital requirements in connection with seller/servicer agreements that BPF has entered into with the various GSEs. Failure to maintain minimum capital requirements could result in BPF's inability to originate and service loans for the respective GSEs and could have a direct material adverse effect on the Company's consolidated financial statements. Management believes that as of December 31, 2016 and 2015 that BPF has met all capital requirements. As of December 31, 2016 the most restrictive capital requirement was Fannie Mae's net worth requirement. The Company exceeded the minimum requirement by \$378.6 million.

Certain of BPF's agreements with Fannie Mae allow BPF to originate and service loans under Fannie Mae's DUS Program. These agreements require BPF to maintain sufficient collateral to meet Fannie Mae's restricted and operational liquidity requirements based on a pre-established formula. Certain of BPF's agreements with Freddie Mac allow BPF to service loans under Freddie Mac's Targeted Affordable Housing Program (TAH). These agreements require BPF to pledge sufficient collateral to meet Freddie Mac's liquidity requirement of 8% of the outstanding principal of TAH loans serviced by BPF. Management believes that as of December 31, 2016 and 2015 that BPF has met all liquidity requirements.

In addition, as a servicer for Fannie Mae, GNMA and FHA, BPF is required to advance to investors any uncollected principal and interest due from borrowers. At December 31, 2016 and 2015, outstanding borrower advances were approximately \$106 thousand and \$19 thousand, respectively, and are included in other assets in the accompanying consolidated balance sheet.

(5) Loans Held for Sale (LHFS)

ASC 825, Financial Instruments, provides entities with an option to measure financial instruments at fair value. BPF initially and subsequently measures all loans held for sale at fair value on the accompanying consolidated balance sheet. This fair value measurement falls within the definition of a Level 2 measurement (significant other observable inputs) within the fair value hierarchy. Loans held for sale represent originated loans that are typically sold within 45 days from the date that the mortgage loan is funded. Electing to use fair value allows a better offset of the change in fair value of the loan and the change in fair value of the derivative instruments used as economic hedges. During the period prior to its sale, interest income on a loan held for sale is calculated in accordance with the terms of the individual loan. Loans held for sale had a cost basis and fair value as follows (in thousands):

	Cost Basis	Fair Value
December 31, 2016	\$1,074,429	\$1,071,836
December 31, 2015	360,164	359,109

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As of December 31, 2016 and 2015 there were no loans held for sale that were 90 days or more past due or in nonaccrual status.

(6) Derivatives

BPF accounts for its derivatives at fair value, and recognized all derivatives as either assets or liabilities in its consolidated balance sheet. In its normal course of business, BPF enters into commitments to extend credit for mortgage loans at a specific rate (rate lock commitments) and commitments to deliver these loans to third party investors at a fixed price (forward sale contracts). These transactions are accounted for as derivatives.

The fair value and notional balances of BPF's derivatives for rate lock commitments and forward sale contracts can be found in Note 18.

The fair value of BPF's derivatives for rate lock commitments and forward sale contracts are as follows (in thousands) and are included in Gains from mortgage banking activities and Personnel expenses in the accompanying consolidated statements of operations.

	Location of gain (loss) recognized in income for derivatives	Successor January 1, 2016 - December 31, 2016	Successor January 1, 2015 - December 31, 2015	Successor For the period April 10, 2014 through December 31, 2014	Predecessor For the period January 1, 2014 through April 9, 2014
Derivatives not designed as hedging instruments:					
Rate lock commitments	Gains from mortgage banking activities	\$ 284	\$ 484	\$ 8,150	\$ 113
Rate lock commitments	Personnel expenses	(724)	(463)	(1,358)	(125)
Forward sale contracts	Gains from mortgage banking activities	8,101	5,223	2,005	1,783
Total		<u>\$ 7,661</u>	<u>\$ 5,244</u>	<u>\$ 8,797</u>	<u>\$ 1,771</u>

(7) Credit Enhancement Receivable, Contingent Liability & Credit Enhancement Deposit

BPF is a party to a Credit Enhancement Agreement (CEA) dated March 9, 2012, with German American Capital Corporation and Deutsche Bank Americas Holding Corporation (together, DB Entities). On October 20, 2016, the DB Entities assigned the CEA to Deutsche Bank AG Cayman Island Branch, a Cayman Island Branch of Deutsche Bank AG (DB Cayman). Under the terms of these agreements, DB Cayman provides BPF with varying levels of ongoing credit protection, subject to certain limits, for Fannie Mae and Freddie Mac loans subject to loss sharing (see Note 11) in BPF's servicing portfolio as of March 9, 2012. DB Cayman will also reimburse BPF for any losses incurred due to violation of underwriting and serving agreements that occurred prior to March 9, 2012. For the year ended December 31, 2016 there were no reimbursements under this agreement. For the year ended December 31, 2015 there were two reimbursements under this agreement for \$1.2 million. For the periods April 10, 2014 through December 31, 2014 and January 1, 2014 through April 9, 2014, there were no reimbursements under this agreement.

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Credit enhancement receivable

At December 31, 2016, BPF had \$16.9 billion of credit risk loans in its servicing portfolio with a maximum pre-credit enhancement loss exposure of \$4.7 billion. BPF had a form of credit protection from DB Cayman on \$5.5 billion of credit risk loans with a maximum loss exposure coverage of \$1.6 billion. The amount of the maximum loss exposure without any form of credit protection from DB Cayman is \$3.1 billion.

At December 31, 2015, BPF had \$14.4 billion of credit risk loans in its servicing portfolio with a maximum pre-credit enhancement loss exposure of \$4.1 billion. BPF had a form of credit protection from the DB Entities on \$6.9 billion of credit risk loans with a maximum loss exposure coverage of \$1.9 billion. The amount of the maximum loss exposure without any form of credit protection from DB Cayman is \$2.2 billion.

Credit enhancement deposit

The CEA required the DB Entities to deposit \$25 million into BPF's Fannie Mae restricted liquidity account (see Note 4), which BPF is required to return to DB Cayman, less any outstanding claims, on March 5, 2021. The \$25 million deposit is included in restricted cash and the offsetting liability in credit enhancement deposit in the accompanying consolidated balance sheet.

Contingent liability

Under the CEA, BPF is required to pay DB Cayman on March 9, 2021, an amount equal to 50% of the positive difference, if any, between (a) \$25 million, and (b) BPF's unreimbursed loss sharing payments from March 9, 2012 through March 9, 2021 on BPF's servicing portfolio as of March 9, 2012.

(8) Gains from mortgage banking activities, net

Gains from mortgage banking activities, net consist of the following activity (in thousands):

	Successor January 1, 2016 - December 31, 2016	Successor January 1, 2015 - December 31, 2015	Successor For the period April 10, 2014 through December 31, 2014	Predecessor For the period January 1, 2014 through April 9, 2014
Loan origination related fees and sales premiums, net	\$ 59,440	\$ 45,356	\$ 34,273	\$ 7,982
Fair value of expected net future cash flows from servicing recognized at commitment, net	124,361	68,001	45,104	7,242
Gains from mortgage banking activities, net	\$ 183,801	\$ 113,357	\$ 79,377	\$ 15,224

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(9) Mortgage Servicing Rights (MSR)

A summary of the activity in mortgage servicing rights for the Company for the years ended December 31, 2016 and 2015 and for the periods April 10, 2014 through December 31, 2014 and January 1, 2014 through April 9, 2014 is as follows (in thousands):

	Successor For the year ended December 31, 2016	Successor For the year ended December 31, 2015	Successor For the period April 10, 2014 - December 31, 2014	Predecessor For the period January 1, 2014 - April 9, 2014
<u>Mortgage Servicing Rights</u>				
Beginning Balance	\$ 271,849	\$ 240,011	\$ —	\$ 181,256
Fair value at date of acquisition	—	—	222,438	—
Additions	126,547	71,873	40,636	7,573
Purchases from an affiliate	3,905	9,259	7,418	—
Purchases from third parties	3,771	—	—	—
Sales	—	—	(177)	—
Amortization	(58,514)	(49,294)	(30,304)	(11,910)
Ending Balance	<u>\$ 347,558</u>	<u>\$ 271,849</u>	<u>\$ 240,011</u>	<u>\$ 176,919</u>
<u>Valuation Allowance</u>				
Beginning Balance	\$ (7,936)	\$ (2,657)	\$ —	\$ —
Decrease (increase)	194	(5,279)	(2,657)	—
Ending Balance	<u>\$ (7,742)</u>	<u>\$ (7,936)</u>	<u>\$ (2,657)</u>	<u>\$ —</u>
Net balance	<u>\$ 339,816</u>	<u>\$ 263,913</u>	<u>\$ 237,354</u>	<u>\$ 176,919</u>

On July 21, 2016, the Company purchased the mortgage servicing rights to a portfolio of FHA/GNMA construction loans from an unaffiliated third party for \$3.8 million.

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The amount of contractually specified servicing fees (including primary and special servicing fees) and ancillary fees (including yield maintenance fees) earned by BPF were as follows:

	Successor January 1, 2016 - December 31, 2016	Successor January 1, 2015 - December 31, 2015	Successor For the period April 10, 2014 through December 31, 2014	Predecessor For the period January 1, 2014 through April 9, 2014
Servicing fees	\$ 78,527	\$ 66,211	\$ 43,392	\$ 15,839
Escrow interest and placement fees	3,771	2,508	1,311	456
Ancillary fees	5,373	5,637	4,350	410
Total servicing fees and escrow interest	<u>\$ 87,671</u>	<u>\$ 74,356</u>	<u>\$ 49,053</u>	<u>\$ 16,705</u>

These fees are classified as Servicing fees in the accompanying consolidated statements of operations.

The Company's primary servicing portfolio at December 31, 2016 and 2015 was approximately \$50.6 billion and \$44.4 billion, respectively. The Company's special servicing portfolio at December 31, 2016 and 2015 was \$5.1 billion and \$5.7 billion, respectively.

The estimated fair value of the MSR's at December 31, 2016 and 2015 was \$344.9 million and \$267.1 million, respectively.

Fair values are estimated using a valuation model that calculates the present value of the future net servicing cash flows. The cash flows assumptions used are based on assumptions BPF believes market participants would use to value the portfolio. Significant assumptions include estimates of the cost of servicing per loan, discount rate, earnings rate on escrow deposits and prepayment speeds. An increase in discount rate of 100 bps or 200 bps would result in a decrease in fair value by \$9.9 million and \$19.3 million, respectively, at December 31, 2016 and by \$7.6 million and \$14.9 million, respectively, at December 31, 2015.

(10) Warehouse Notes Payable

BPF uses its warehouse lines and a repurchase agreement to fund mortgage loans originated under its various lending programs. Outstanding borrowings against these lines are collateralized by an assignment of the underlying mortgages and third party purchase commitments.

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As of December 31, 2016, BPF had the following lines available and borrowings outstanding (in thousands):

	Committed Lines	Uncommitted Lines	Balance at December 31, 2016	Stated Spread to One Month LIBOR	Rate Type
Warehouse line due April 21, 2017 (1)	\$450,000	\$ —	\$ 43,356	135 bps	Variable
Warehouse line due September 25, 2017	200,000	—	34,628	135 bps	Variable
Warehouse line due October 12, 2017 (2)	200,000	—	23,833	135 bps	Variable
Fannie Mae repurchase agreement, open maturity	—	325,000	156,152	120 bps	Variable
	<u>\$850,000</u>	<u>\$ 325,000</u>	<u>\$ 257,969</u>		

- (1) - On April 21, 2017, the maturity date was extended until June 9, 2017. On May 17, 2017, the maturity date was extended until August 9, 2017. On June 21, 2017, the maturity date was extended until June 20, 2018.
- (2) - The warehouse line was temporarily increased by \$2,100,000 on April 27, 2017. The temporary increase expired on June 13, 2017. On June 23, 2017, the warehouse line was increased by \$ 100,000 from \$200,000 to \$300,000.

At December 31, 2015, BPF had the following lines available and borrowings outstanding (in thousands):

	Committed Lines	Uncommitted Lines	Balance at December 31, 2015	Stated Spread to One Month LIBOR	Rate Type
Warehouse line due February 25, 2016	\$450,000	\$ —	\$ 176,553	150 bps	Variable
Warehouse line due September 26, 2016	200,000	—	100,274	150 bps	Variable
Warehouse line due October 13, 2016	200,000	—	14,743	150 bps	Variable
Fannie Mae repurchase agreement, open maturity	—	200,000	68,064	130 bps	Variable
	<u>\$850,000</u>	<u>\$ 200,000</u>	<u>\$ 359,634</u>		

BPF is required to meet a number of financial covenants, including maintaining a minimum of \$15.0 million of cash and cash equivalents. BPF was in compliance with all covenants on December 31, 2016 and 2015 and for the years ended December 31, 2016 and 2015 and for the periods April 10, 2014 through December 31, 2014 and January 1, 2014 through April 9, 2014.

(11) Financial Guarantee Liability

BPF shares risk of loss for loans originated under the Fannie Mae DUS and Freddie TAH programs and could incur losses in the event of defaults under or foreclosure of these loans. Under the guarantee, BPF's maximum contingent liability to the extent of actual losses incurred is approximately 33% of the outstanding principal balance on Fannie Mae DUS or Freddie TAH loans. Risk sharing percentages are established on a loan by loan basis when originated with most loans at 33% and "modified" loans at lower percentages. Under certain circumstances, risk sharing percentages can be revised subsequent to origination or BPF could be required to repurchase the loan. In the event of a loss resulting from a catastrophic event that is not required to be covered by borrowers' insurance policies, BPF can recover the loss under its mortgage impairment insurance policy. Any potential recovery is subject to the policy's deductibles and limits (see Note 19).

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At December 31, 2016, the credit risk loans being serviced by BPF on behalf of Fannie Mae and Freddie Mac had outstanding principal balances of approximately \$16.9 billion with a maximum potential loss of approximately \$4.7 billion, of which \$1.6 billion is covered by the Credit Enhancement Agreement (see Note 7).

At December 31, 2015, the credit risk loans being serviced by BPF on behalf of Fannie Mae and Freddie Mac had outstanding principal balances of approximately \$14.4 billion with a maximum potential loss of approximately \$4.1 billion, of which \$1.9 billion is covered by the Credit Enhancement Agreement (see Note 7).

At December 31, 2016, and 2015, the estimated liability under the guarantee liability was as follows (in thousands):

Balance at December 31, 2014	\$(2,717)
Charge-offs	1,251
Reversal of provision	1,178
Balance at December 31, 2015	\$ (288)
Increase to provision	(125)
Balance at December 31, 2016	\$ (413)

In order to monitor and mitigate potential losses, BPF uses an internally developed loan rating scorecard for determining which loans meet BPF's criteria to be placed on a watchlist. BPF also calculates default probabilities based on internal ratings and expected losses on a loan by loan basis. This methodology uses a number of factors including, but not limited to, debt service coverage ratios, collateral valuation, the condition of the underlying assets, borrower strength and market conditions.

See Note 7 for further explanation of credit protection provided by DB Cayman. The provisions for risk sharing in the accompanying consolidated statements of operations was as follows (in thousands):

	Successor January 1, 2016 - December 31, 2016	Successor January 1, 2015 - December 31, 2015	Successor For the period April 10, 2014 through December 31, 2014	Predessor For the period January 1, 2014 through April 9, 2014
Provisions for risk-sharing obligations from:				
Increase (decrease) to financial guarantee liability	\$ 125	\$ (1,178)	\$ (172)	\$ (714)
Decrease (increase) to credit enhancement asset	101	1,043	249	714
Increase (decrease) to contingent liability	5	54	(29)	—
Total expense	<u>\$ 231</u>	<u>\$ (81)</u>	<u>\$ 48</u>	<u>\$ —</u>

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(12) Concentrations of Credit Risk

The lending activities of BPF create credit risk in the event that counterparties do not fulfill their contractual payment obligations. In particular, BPF is exposed to credit risk related to the Fannie Mae DUS and Freddie Mac TAH loans (see Note 11). As of December 31, 2016, 29% of \$4.7 billion of the maximum loss (see Note 11) was for properties located in California. As of December 31, 2015, 33% of \$4.1 billion of the maximum loss (see Note 11) was for properties located in California.

(13) Commitments, Contingencies and Litigation

At December 31, 2016 and 2015, BPF was committed to fund approximately \$207 million and \$156 million, respectively, which is the total remaining draws on construction loans originated by BPF under the HUD 221(d)4, 220 and 232 programs, rate locked loans that have not been funded, forward commitments as well as the funding for Fannie Mae Structured Transactions. BPF also has corresponding commitments to sell these loans to various investors as they are funded.

BPF leases office space in a number of offices under non-cancelable operating leases. Future minimum rental payments under the terms of the leases are (in thousands):

	As of December 31, 2016
2017	\$ 2,453
2018	2,060
2019	1,025
2020	1,047
2021	1,073
Thereafter	6,196
Total	\$ 13,854

Rent expense is included in Other operating expense in the accompanying consolidated statements of operations (in thousands):

	Successor January 1, 2016 - December 31, 2016	Successor January 1, 2015 - December 31, 2015	Successor For the period April 10, 2014 through December 31, 2014	Predecessor For the period January 1, 2014 through April 9, 2014
Rent expense	\$ 3,025	\$ 2,811	\$ 2,018	\$ 746

Legal accruals are established when a material legal liability is both probable and reasonably estimable. Once established, accruals are adjusted when there is more information available or when an event occurs requiring change. As of December 31, 2016, 2015 and 2014, the Company was not subject to any material litigation.

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(14) Related Party Transactions

Successor

BPF's parent, CCRE, is a real estate finance company that is principally engaged in the origination, pooling and securitization of commercial mortgage loans. Loans are referred to BPF by CCRE (and other entities affiliated with CCRE) and BPF refers loans to CCRE (and other entities affiliated with CCRE). Revenue from these referrals was recognized in gains from mortgage activities in the accompanying consolidated statements of operations as follows (in thousands):

	January 1, 2016 - December 31, 2016	January 1, 2015 - December 31, 2015	For the period April 10, 2014 through December 31, 2014
Loans referred to BPC by CCRE and affiliates, net	\$ 47,524	\$ 17,014	\$ 2,405
Loans referred to CCRE and affiliates by BPC, net	429	918	861
Total revenue	\$ 47,953	\$ 17,932	\$ 3,266

The above fees are net of broker fees and commissions to CCRE (and other entities affiliated with CCRE) of \$10.8 million, \$3.5 million and \$0.6 million for the years ended December 31, 2016, 2015 and for the period April 10, 2014 through December 31, 2014, respectively.

On March 11, 2015, BPF and CCRE entered into a note receivable/payable that allows for advances to or from CCRE at an interest rate of 1 month LIBOR plus 1.0%. As of December 31, 2016, there were \$690.0 million of outstanding advances due to CCRE on the note and this balance is included in Due to affiliates in the accompanying consolidated balance sheet. As of December 31, 2015, there were no outstanding advances on the note. BPF recognized the following in the accompanying consolidated statements of operations (in thousands):

	For the years ended December 31,		Statement of Income
	2016	2015	Location
Interest income	\$ 75	\$ 77	Other interest income
Interest expense	2,250	174	Interest expense - warehouse

For the year ended December 31, 2016, BPF purchased the primary servicing rights of \$2.9 billion of loans originated by CCRE for \$3.9 million. For the year ended December 31, 2015, BPF purchased the primary servicing rights of \$8.3 billion of loans originated by CCRE for \$9.2 million. For the period April 10, 2014 through December 31, 2014, BPF purchased the primary servicing rights of \$8.2 billion of loans originated by CCRE for \$7.4 million. BPF also services loans for CCRE on a "fee for service" basis, generally prior to a loan's sale or securitization, and for which no MSR is recognized. Servicing revenue (excludes interest and placement fees) from loans

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purchased from CCRE or on a “fee for service” basis for the years ended December 31, 2016 and 2015 and for the period April 10, 2014 through December 31, 2014 was \$3.6 million, \$2.7 million and \$0.4 million, respectively, and was recognized in Servicing fees in the accompanying consolidated statements of operations.

CCRE charges BPF for certain administrative services, including accounting, legal, treasury, human resources, risk management, and facilities management, CCRE and its affiliates provide to BPF. BPF was charged \$0.3 million and \$0.5 million for the years ended December 31, 2016 and 2015, respectively. These amounts are included in Other operating expenses in the accompanying consolidated statements of operations. There were no charges passed through for the period April 10, 2014 through December 31, 2014.

Predecessor

BPF was party to a consulting agreement with one of the members of BPF, under which an employee of that member provides BPF with consulting services. For the period January 1, 2014 through April 9, 2014, BPF recognized \$0.1 million expense under the agreement which is included in other operating expenses in the accompanying consolidated statements of operations.

(15) Compensation

Predecessor and Successor

Origination commissions to BPF’s originators are calculated based on contractual terms. This expense is recognized in the personnel expenses within the consolidated statements of operations. The Company recognized compensation expense of \$33.0 million, \$23.6 million, \$20.9 million and \$4.3 million for the years ended December 31, 2016, 2015 and for the periods April 10, 2014 through December 31, 2014 and January 1, 2014 through April 9, 2014, respectively, for origination commissions.

The Company may pay certain bonuses in the form of deferred cash compensation awards, which generally vest over a future service period. The total compensation expense recognized in relation to the deferred cash compensation awards for the years ended December 31, 2016, 2015 and for the periods April 10, 2014 through December 31, 2014 and January 1, 2014 through April 9, 2014 was \$1.3 million, \$2.6 million, \$4.8 million and \$1.3 million, respectively. As of December 31, 2016 and 2015, the total liability for the deferred cash compensation awards was \$2.6 million and \$3.8 million, respectively, and is included in Accounts payable and accrued expenses in the consolidated balance sheet. As of December 31, 2016 and 2015, the total notional value of deferred cash compensation was approximately \$4.5 million and \$6.5 million, respectively.

Successor only

Certain cash bonus awards are paid subsequent to the balance sheet date and require employee service for a period of time subsequent to payment. This expense is recognized utilizing the graded vesting amortization method in the personnel expenses within the consolidated statements of operations. The Company recognized compensation expense of \$8.8 million, \$7.4 million and \$3.1 million for the years ended December 31, 2016, 2015 and for the period April 10, 2014 through December 31, 2014, respectively, for certain cash bonus awards.

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The Company enters into various agreements with certain employees whereby these individuals receive loans that may be forgiven over a period of time. The forgivable portion of these loans is recognized as compensation expense over the life of the loan (typically 2 to 3 years). As of December 31, 2016 and 2015, the aggregate unamortized balance of these loans was \$2.2 million and \$0.9 million, respectively, which is included in Other assets in the consolidated balance sheet. The amortization expense for these loans for the years ended December 31, 2016 and 2015 and for the period April 10, 2014 through December 31, 2014 was \$1.6 million, \$0.5 million and \$17 thousand, respectively, which is included in personnel expenses in the consolidated statements of operations.

(16) Equity Compensation (Predecessor)

As part of its formation, BPF issued 169,000 Class A Units (A Units) at \$1,000 per unit. In addition, BPF was authorized to issue up to 18,777.77 Class B Units (B Units), of which, 15,194.81 were issued.

B-Units provided the holders the right to receive from BPF, from time to time, (a) tax distributions to compensate the holders for federal, state and local tax liabilities incurred in connection with holding B-Units, and (b) distributions pari-passu with A-Unit and other B-Unit holders once cumulative distributions equaling a threshold amount have been made. Of the 15,194.81 B-units issued, 14,083.34 had a threshold amount of \$1,000 and the remaining 1,111.47 had a threshold amount of \$1,183.82.

Certain employees of BPC were indirectly granted equity in BPF through the issuance of a total of 9,561.47 B-units to a Limited Partnership which, in turn, issued mirror B-units to the employees. These B-units vested over a four year period subject to certain conditions and exclusions. All unvested B-units became fully vested upon sale of the Company. The Company estimated the fair value of each B-unit at grant date and records compensation expense, with a corresponding increase in Members' Capital, over the vesting period. Fair value was estimated using a Black-Scholes model with model inputs management believes would be used by a market participant in an arm's length transaction.

For the period January 1, 2014 through April 9, 2014, compensation expense of \$1.6 million was recorded in personnel expenses in the Company's consolidated statements of operations related to the B-Units. Of the \$1.6 million, \$1.4 million related to the accelerated vesting due to the sale to CCRE.

(17) Escrow and Custodial Funds

In conjunction with the servicing of multi-family and commercial loans, BPF holds escrow and other custodial funds. Escrow funds are held at unaffiliated financial institutions generally in the form of cash and cash equivalents. These funds amounted to approximately \$1.1 billion and \$0.6 billion, as of December 31, 2016 and 2015, respectively. These funds are held for the benefit of BPF's borrowers and are segregated in custodial bank accounts. These amounts are excluded from the assets and liabilities of the Company.

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(18) Fair Value of Financial Instruments

ASC 820, Fair Value Measurement, requires the disclosure of fair value information about financial instruments for which it is practical to estimate that value, whether or not the instrument is recognized on the balance sheet. Quoted market prices, when available, are used as the measure of fair value. In cases where quoted market prices are not available, fair values are derived by management based on present value estimates of anticipated cash flows.

These derived fair values are significantly affected by assumptions used, principally the timing of future cash flows and the discount rate. Because assumptions are inherently subjective in nature, the estimated fair values cannot be substantiated by comparison to independent market quotes and, in many cases, these estimated fair values may not necessarily be realized in an immediate sale or settlement of the instrument.

The following table represents the Company's fair value hierarchy for those assets and liabilities measured at fair value on a recurring basis as (in thousands):

As of December 31, 2016				
	Level 1	Level 2	Level 3	Total
Assets:				
Loans held for sale	\$ —	\$1,071,836	\$ —	\$1,071,836
Derivative assets	—	—	19,924	19,924
Total assets	\$ —	\$1,071,836	\$19,924	\$1,091,760
Liabilities:				
Derivative liabilities	\$ —	\$ —	\$ 9,670	\$ 9,670
Contingent liability	—	—	10,390	10,390
Total liabilities	\$ —	\$ —	\$20,060	\$ 20,060
As of December 31, 2015				
	Level 1	Level 2	Level 3	Total
Assets:				
Loans held for sale	\$ —	\$ 359,109	\$ —	\$ 359,109
Derivative assets	—	—	9,531	9,531
Total assets	\$ —	\$ 359,109	\$ 9,531	\$ 368,640
Liabilities:				
Derivative liabilities	\$ —	\$ —	\$ 3,231	\$ 3,231
Contingent liability	—	—	10,018	10,018
Total liabilities	\$ —	\$ —	\$13,249	\$ 13,249

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There were no transfers between level 1, 2 and level 3 for the years ended December 31, 2016 and 2015 and for the periods April 10, 2014 through December 31, 2014 and January 1, 2014 through April 9, 2014.

Derivative instruments are outstanding for short periods of time (generally less than 60 days). A roll forward of assets and liabilities (level 3) that require valuation based upon significant unobservable inputs, is presented below (in thousands):

Fair Value Measurements Using Significant Unobservable Inputs:		
	Derivative assets and liabilities, net	Contingent Liability
Fair value on date of acquisition	\$ 2,577	\$ 8,947
Settlements	(2,577)	—
Net unrealized gains (losses) recorded in earnings	7,394	(556)
Balance at December 31, 2014	<u>\$ 7,394</u>	<u>\$ 9,503</u>
Balance at December 31, 2014	\$ 7,394	\$ 9,503
Settlements	(7,394)	—
Net unrealized gains (losses) recorded in earnings	6,300	(515)
Balance at December 31, 2015	<u>\$ 6,300</u>	<u>\$ 10,018</u>
Balance at December 31, 2015	\$ 6,300	\$ 10,018
Settlements	(6,300)	—
Net unrealized gains (losses) recorded in earnings	10,254	(372)
Balance at December 31, 2016	<u>\$ 10,254</u>	<u>\$ 10,390</u>

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The following table presents information about significant unobservable inputs used in the measurement of the fair value of the Company's Level 3 assets and liabilities (in thousands):

December 31, 2016				
Level 3 assets and liabilities	Assets	Liabilities	Significant Unobservable Inputs	Range of Significant Unobservable Inputs
-Forward sale contracts	\$ 2,100	\$ —	Counterparty credit risk	—
-Rate lock commitments	17,824	9,670	Counterparty credit risk	—
-Contingent liability	—	10,390	Discount rate	4.23%
Total	<u>\$ 19,924</u>	<u>\$ 20,060</u>		

December 31, 2015				
Level 3 assets and liabilities	Assets	Liabilities	Significant Unobservable Inputs	Range of Significant Unobservable Inputs
-Forward sale contracts	\$ 2,401	\$ —	Counterparty credit risk	—
-Rate lock commitments	7,130	3,231	Counterparty credit risk	—
-Contingent liability	—	10,018	Discount rate	4.11%
Total	<u>\$ 9,531</u>	<u>\$ 13,249</u>		

The carrying amounts and the fair value of the Company's financial instruments as of December 31, 2016 and 2015 are presented below (in thousands):

	December 31, 2016		December 31, 2015		December 31, 2014	
	Carrying Amount	Fair Value	Carrying Amount	Fair Value	Carrying Amount	Fair Value
Assets:						
Cash and cash equivalents	\$ 33,589	\$ 33,589	\$ 100,894	\$ 100,894	\$ 61,061	\$ 61,061
Restricted cash and cash equivalents	50,927	50,927	48,742	48,742	48,407	48,407
Loans held for sale	1,071,836	1,071,836	359,109	359,109	785,180	785,180
Derivative assets	19,924	19,924	9,531	9,531	12,095	12,095
Total	<u>\$ 1,176,276</u>	<u>\$ 1,176,276</u>	<u>\$ 518,276</u>	<u>\$ 518,276</u>	<u>\$ 906,743</u>	<u>\$ 906,743</u>
Liabilities:						
Derivative liabilities	\$ 9,670	\$ 9,670	\$ 3,231	\$ 3,231	\$ 4,701	\$ 4,701
Warehouse notes payable	257,969	257,969	359,634	359,634	778,183	778,183
Total	<u>\$ 267,639</u>	<u>\$ 267,639</u>	<u>\$ 362,865</u>	<u>\$ 362,865</u>	<u>\$ 782,884</u>	<u>\$ 782,884</u>

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The following methods and assumptions were used to estimate the fair value of each asset and liability for which it is practicable to estimate that value:

- Cash and cash equivalents and restricted cash – The carrying amounts approximate fair value due to the highly liquid nature and short maturity of these instruments. (Level 1)
- Loans held for sale – Consists of originated loans that have been sold to third party investors at a fixed price and are generally settled within 30 days from the date of funding. (Level 2)
- Derivatives – Consists of rate lock commitments and forward sale contracts. These instruments are valued using discounted cash flow models based on changes in market interest rates and other observable market data. (Level 3)
- Mortgage servicing rights, net—As noted in Note 2 and Note 9, MSR are initially recorded at fair value and then are subsequently measured using the amortization method. MSR are assessed for impairment at least annually and a valuation allowance is established if any class or strata within a class of MSR is deemed to be impaired. At December 31, 2016, certain MSR were deemed to be impaired by a total of \$7,742 and as a result are represented on the consolidated balance sheet at fair value. The fair value of the MSR measured on a non-recurring basis at December 31, 2016 was \$59,141 and are considered to be Level 3 within the fair value hierarchy.

At December 31, 2015, certain MSR were deemed to be impaired by a total of \$7,936 and as a result are represented on the consolidated balance sheet at fair value. The fair value of the MSR measured on a non-recurring basis at December 31, 2015 was \$44,217 and are considered to be Level 3 within the fair value hierarchy.

- Warehouse notes payable – Consists of borrowings under warehouse line agreements. The borrowing rates on the warehouse lines are based short term London Interbank Offered Rates (LIBOR) plus applicable margins. The carrying amounts approximate fair value due to the short term maturity of these instruments. (Level 2)
- Contingent liability – Consists of the future liability under the CEA to DB Cayman. The amount due to DB Cayman in March of 2021 is estimated using the financial guaranty liability (see Note 11) and the credit enhancement receivable (see Note 7) and discounted to the balance sheet date using a discount rate equivalent to an estimate of the rate the Company would pay for unsecured debt. (Level 3)

Fair value of derivative instruments and loans held for sale

In the normal course of business, BPF enters into contractual commitments to originate and sell loans at fixed prices with fixed expiration dates. The commitments become effective when the borrowers rate lock their interest rate within time frames established by BPF. Borrowers are evaluated for creditworthiness prior to this commitment. Market risk arises if interest rates move adversely between the time of the rate lock by the borrower and the date the loan is sold to an investor.

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To mitigate the effect of the interest rate risk inherent in providing rate lock commitments to borrowers, BPF's enters a sale commitment with an investor simultaneously with the rate lock commitment with the borrower. The sale contract with the investor locks in an interest rate and price for the sale of the loan. The terms of the contract with the investor and the rate lock with the borrower are matched in substantially all respects, with the objective of eliminating interest rate risk to the extent practical. Sale commitments with the investors have an expiration date that is longer than our related commitments to the borrower to allow, among other things, for the closing of the loan and processing of paperwork to deliver the loan into the sale commitment.

Both the rate lock commitments to borrowers and the forward sale contracts to investors are derivatives and, accordingly, are marked to fair value through the statements of operations. The fair value of BPF's rate lock commitments to borrowers and loans held for sale and the related input levels includes, as applicable:

- The assumed gain/loss of the expected loan sale to the investor;
- The expected net future cash flows associate with servicing the loan ;
- The effects of interest rate movements between the date of the rate lock and the balance sheet date; and
- The nonperformance risk of both the counterparty and BPF.

The fair value of BPF's forward sales contracts to investors considers effects of interest rate movements between the trade date and the balance sheet date. The market price changes are multiplied by the notional amount of the forward sales contracts to measure the fair value.

The gain/loss considers the amount that BPF has discounted the price to the borrower from par for competitive reasons, if at all, and the expected net cash flows from servicing to be received upon sale of the loan. The fair value of the expected net future cash flows associated with servicing the loan is calculated pursuant to the valuation techniques described in Note 9.

To calculate the effects of interest rate movements, BPF uses applicable U.S. Treasury prices, and multiplies the price movement between the rate lock date and the balance sheet date by the notional loan commitment amount.

The fair value of BPF's forward sales contracts to investors considers the market price movement of the same type of security between the trade date and the balance sheet date. The market price changes are multiplied by the notional amount of the forward sales contracts to measure the fair value.

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The fair value of BPF's rate lock commitments and forward sale contracts is adjusted to reflect the risk that the agreement will not be fulfilled. The Company's exposure to nonperformance in rate lock and forward sale contracts is represented by the contractual amount of those instruments. Given the credit quality of our counterparties, the short duration of rate lock commitments and forward sales contracts, and the Company's historical experience with the agreements, management does not believe the risk of nonperformance by the Company's counterparties to be significant.

The fair value of the Company's loans held for sale include the gain/loss for pricing discounts and expected net future cash flows and the effect of interest rate movements as described above.

	Fair Value Adjustment Components				Balance Sheet Location		
	Notional or Principal Amount	Assumed Gain (Loss) on Sale	Interest Rate Movement Effect	Total Fair Value Adjustment	Derivative Contract Assets	Derivative Contract Liabilities	Fair Value Adjustment to Loans Held for Sale
December 31, 2016							
Rate lock commitments	\$ 201,603	\$ 2,100	\$ (9,670)	\$ (7,570)	\$ 2,100	\$ (9,670)	\$ —
Forward sale contracts	1,276,032	148	17,676	17,824	17,824	—	—
Loans held for sale	1,074,429	5,413	(8,006)	(2,593)	—	—	(2,593)
		<u>\$ 7,661</u>	<u>\$ —</u>	<u>\$ 7,661</u>	<u>\$ 19,924</u>	<u>\$ (9,670)</u>	<u>\$ (2,593)</u>

	Fair Value Adjustment Components				Balance Sheet Location		
	Notional or Principal Amount	Assumed Gain (Loss) on Sale	Interest Rate Movement Effect	Total Fair Value Adjustment	Derivative Contract Assets	Derivative Contract Liabilities	Fair Value Adjustment to Loans Held for Sale
December 31, 2015							
Rate lock commitments	\$ 126,370	\$ 261	\$ (3,231)	\$ (2,970)	\$ 261	\$ (3,231)	\$ —
Forward sale contracts	486,534	2,401	6,869	9,270	9,270	—	—
Loans held for sale	360,164	2,582	(3,638)	(1,056)	—	—	(1,056)
		<u>\$ 5,244</u>	<u>\$ —</u>	<u>\$ 5,244</u>	<u>\$ 9,531</u>	<u>\$ (3,231)</u>	<u>\$ (1,056)</u>

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(19) Mortgage Bankers Blanket Bond and Mortgage Impairment Policy

BPF is insured under a fidelity blanket bond. BPF is insured against certain losses due to dishonest employees and, in some cases, certain third parties acting on behalf of BPF. Claims on this type of loss were subject to a \$150,000 deductible for years ended December 31, 2016 and 2015 and for the period April 10, 2014 through December 31, 2014. BPF is also insured under a mortgage errors and omissions policy covering losses due to errors and omissions relating to mortgagee interest liability to mortgagor and liability to investors. Claims on this type of loss were subject to a \$150,000 deductible for years ended December 31, 2016 and 2015 and for the periods April 10, 2014 through December 31, 2014 and January 1, 2014 through April 9, 2014.

BPF is insured under a mortgage protection insurance policy. The policy covers loans that BPF services under its Fannie Mae DUS and Freddie Mac TAH programs. The policy covers losses that BPF may incur under its risk sharing provisions with Fannie Mae and Freddie Mac (see Note 11) that are a result of catastrophic events that are not required to be covered by the borrowers' insurance policies. For the years ended December 31, 2016 and 2015 and for the periods April 10, 2014 through December 31, 2014 and January 1, 2014 through April 9, 2014, the coverage limit was \$25 million. As of December 31, 2016, claims on this policy were subject to a \$50,000 deductible, except for flood and earthquake which were subject to the following deductibles:

- Flood – \$500,000
- Earthquake –\$500,000 for California
- Earthquake—\$500,000 for certain high risk counties in 9 other states as outlined in the policy

BPF recognized approximately \$0.6 million, \$0.5 million, \$0.3 million and \$.01 million in Other operating expenses in the accompanying consolidated statements of operations for the above policies for the years ended December 31, 2016 and 2015 and for the periods April 10, 2014 through December 31, 2014 and January 1, 2014 through April 9, 2014, respectively.

(20) Subsequent Events

On July 17, 2017, CCRE entered into an agreement to sell 100% of the membership interest in BPF to BGC Partners, Inc., an affiliate of CCRE.

The Company has evaluated all subsequent events through the date at which the consolidated financial statements were available to be issued, and determined that, other than the transaction noted above, there are no other items to account for or disclose.

BGC Partners, Inc.
Unaudited Pro Forma Condensed Consolidated and Combined Financial Information

On September 8, 2017, BGC Partners, Inc. (“our,” “BGC,” or the “Company”) and one of our operating partnerships, BGC Partners, L.P., closed (the “Closing”) on the below transactions pursuant to a Transaction Agreement, dated as of July 17, 2017 (the “Transaction Agreement”), with Cantor Fitzgerald, L.P. (“Cantor”) and certain of Cantor’s affiliates, including Cantor Commercial Real Estate Company, L.P. (the “Partnership”), Cantor Commercial Real Estate Sponsor, L.P., the general partner of the Partnership, CF Real Estate Finance Holdings, L.P, a newly formed entity (the “Real Estate LP”), and CF Real Estate Finance Holdings GP, LLC, the general partner of the Real Estate LP. Under the terms of the Transaction Agreement:

- At the Closing, the Company purchased and acquired from the Partnership all of the outstanding membership interests of Berkeley Point Financial LLC (“Berkeley Point”), a wholly owned subsidiary of the Partnership that is a leading commercial real estate finance company focused on the origination and sale of multifamily and other commercial real estate loans through government-sponsored and government-funded loan programs, as well as the servicing of commercial real estate loans, for an acquisition price of \$875 million, subject to upward or downward adjustment to the extent that the net assets of Berkeley Point as of the Closing are greater than or less than \$508.6 million (the “Berkeley Point Acquisition”). At the Closing, the Company paid \$2.8 million of the \$875 million acquisition price in units of BGC Holdings, L.P. (“BGC Holdings”), which may be exchanged over time for shares of Class A common stock of BGC (the “Class A common stock”), with each BGC Holdings unit valued for these purposes at the volume weighted-average price of a share of Class A common stock for the three trading days prior to the Closing. The Berkeley Point Acquisition did not include the Special Asset Servicing Group (the “servicing group”) of Berkeley Point; however, Berkeley Point will continue to hold the servicing group’s assets until the servicing group is transferred to the Partnership at a later date in a separate transaction. Accordingly, the Partnership will continue to bear the benefits and burdens of the servicing group from and after the Closing.
- At the Closing, the Company also invested \$100 million, for approximately 27% of the capital (the “Company Investment”), and Cantor invested \$266.67 million, for approximately 73% of the capital (the “Cantor Investment”), in the Real Estate LP. The Company Investment and the Cantor Investment were made in the form of cash. The Real Estate LP, which is controlled by Cantor, was newly formed for the purpose of conducting activities in any real estate-related business or asset-backed securities-related business or any extensions thereof and ancillary activities thereto.

Following the Closing, BGC will consolidate the results of Berkeley Point in our financial statements, and account for our non-controlling interest in the Real Estate LP as an equity method investment, which will not be consolidated in our financial statements. Berkeley Point and our interest in the Real Estate LP are part of our Real Estate Services segment.

In addition, on September 8, 2017, the Company entered into \$975 million of credit facilities (the “Borrowing”), comprising a \$575 million senior term loan credit facility and a \$400 million senior revolving credit facility (together, the “Credit Agreements”). The Borrowing under the Credit Agreements bears interest at either LIBOR plus an applicable margin dependent on the Company’s debt rating as determined by Standard & Poor’s (“S&P”) and Fitch, or a defined base rate equal to the greatest of: (i) the federal funds rate plus 0.5%, (ii) the prime rate as established by Bank of America, N.A., the Administrative Agent, and (iii) LIBOR plus 1.0%, in each case plus an applicable margin dependent on the Company’s debt rating as determined by S&P and Fitch. The Credit Agreements currently bear interest at a rate of 3.485%. The Credit Agreements will mature on September 8, 2019. BGC used the net proceeds of the Borrowing to fund the Berkeley Point Acquisition and the Company Investment.

The following unaudited pro forma condensed consolidated and combined financial information is presented in accordance with the rules specified by Article 11 of Regulation S-X (“Article 11”) promulgated by the U.S. Securities and Exchange Commission (the “SEC”) and has been prepared subject to the assumptions and adjustments as described below and in the notes thereto. Specifically, the unaudited pro forma condensed consolidated and combined financial information set forth below reflects the effects of the Berkeley Point Acquisition and the Borrowing on BGC’s statement of financial condition as of June 30, 2017, as if they had occurred on June 30, 2017, and on BGC’s statements of operations for the six months ended June 30, 2017 and for the years ended December 31, 2016, 2015 and 2014, as if the Berkeley Point Acquisition and the Borrowing had occurred on April 10, 2014, when Berkeley Point was acquired by the Partnership. As Cantor owns a controlling interest in both BGC and the Partnership, the parties involved in the Berkeley Point Acquisition, this presentation is in accordance with the Financial Accounting Standards Board Accounting Standards Codification Subtopic 805-50-45 – *Transactions Between Entities Under Common Control*, as well as Article 11. The unaudited pro forma condensed consolidated and combined statement of financial condition as of June 30, 2017 also reflects the effects of the Company Investment in the Real Estate LP, as if it had occurred on June 30, 2017. Given that the Real Estate LP was newly formed at the Closing, the unaudited pro forma condensed consolidated and combined statements of operations for the six months ended June 30, 2017 and the years ended December 31, 2016, 2015, and 2014 do not reflect any operations of the Real Estate LP. Management believes that the assumptions used and adjustments made are reasonable under the circumstances and given the information available.

The following unaudited pro forma condensed consolidated and combined financial information is for illustrative and informational purposes only and is not necessarily indicative of the financial condition or results of operations of the Company that would have occurred if the Berkeley Point Acquisition, the Borrowing, and the Company Investment had occurred on the dates indicated, nor is it indicative of the future financial condition or results of operations of the combined Company. The unaudited pro forma condensed consolidated and combined financial information does not give effect to any potential cost savings or operational efficiencies that could result from the Berkeley Point Acquisition. In addition, the unaudited pro forma condensed consolidated and combined financial information does not include any adjustments associated with non-recurring events unrelated to the Berkeley Point Acquisition, the Borrowing, or the Company Investment.

The unaudited pro forma condensed consolidated and combined financial information should be read in conjunction with:

- The accompanying notes to the unaudited pro forma condensed consolidated and combined financial statements;
- BGC’s unaudited condensed consolidated financial statements included in the Company’s Quarterly Report on Form 10-Q as of June 30, 2017 and December 31, 2016 and for the three and six months ended June 30, 2017 and 2016;
- BGC’s audited consolidated financial statements included in the Company’s Annual Report on Form 10-K as of December 31, 2016 and 2015 and for the years ended December 31, 2016, 2015, and 2014;
- Berkeley Point Financial LLC’s unaudited consolidated financial statements as of June 30, 2017 and December 31, 2016 and for the six months ended June 30, 2017 and 2016, and audited consolidated financial statements as of December 31, 2016 and 2015 (Successor) and for the years ended December 31, 2016 and 2015 (Successor) and for the periods April 10, 2014 through December 31, 2014 (Successor) and January 1, 2014 through April 9, 2014 (Predecessor), included as Exhibit 99.1 to this Current Report on Form 8-K; and
- The “Risk Factors” section of the Company’s Annual Report on Form 10-K for the year ended December 31, 2016 and any updates to those risk factors or new risk factors contained in the Company’s subsequent Quarterly Reports on Form 10-Q and Current Reports on Form 8-K filed with the SEC.

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ITEM 1. PRO FORMA CONDENSED CONSOLIDATED AND COMBINED FINANCIAL INFORMATION
PRO FORMA CONDENSED CONSOLIDATED AND COMBINED STATEMENT OF FINANCIAL CONDITION
As of June 30, 2017
(in thousands, except per share data)
(unaudited)

	BGC Partners, Inc. Historical	Berkeley Point Financial LLC and Subsidiaries Adjusted Historical (Note 2)	Noncontrolling Interest in Subsidiaries Adjustments (Note 3(a))	BGC Partners, Inc. Combined	The Berkeley Point Acquisition, the Borrowing, and the Company Investment Pro Forma Adjustments (Note 3(b))	BGC Partners, Inc. Pro Forma
Assets						
Cash and cash equivalents	\$ 462,042	\$ 61,458	\$ —	\$ 523,500	\$ 78,057 (1)	\$ 601,557
Cash segregated under regulatory requirements	119,470	52,111	—	171,581	—	171,581
Securities owned	33,743	—	—	33,743	—	33,743
Marketable securities	169,241	—	—	169,241	—	169,241
Loans held for sale	—	933,850	—	933,850	—	933,850
Receivables from broker-dealers, clearing organizations, customers and related broker-dealers	1,647,686	19,265	—	1,666,951	—	1,666,951
Mortgage services rights, net	—	376,427	—	376,427	—	376,427
Accrued commissions and other receivables, net	576,595	18,259	—	594,854	—	594,854
Loans, forgivable loans and other receivables from employees and partners, net	299,595	2,983	—	302,578	—	302,578
Loan receivables from related parties	150,000	130,000	—	280,000	(280,000) (1)	—
Fixed assets, net	175,737	1,354	—	177,091	—	177,091
Investments	35,122	—	—	35,122	100,000 (1)	135,122
Goodwill	884,753	191	—	884,944	—	884,944
Other intangible assets, net	316,049	5,440	—	321,489	—	321,489
Receivables from related parties	8,970	16	—	8,986	—	8,986
Other assets	301,879	3,074	—	304,953	105,974 (2)	410,927
Total assets	<u>\$5,180,882</u>	<u>\$1,604,428</u>	<u>\$ —</u>	<u>\$6,785,310</u>	<u>\$ 4,031</u>	<u>\$6,789,341</u>
Liabilities, Redeemable Partnership Interest, and Equity						
Short-term borrowings	\$ 150,000	\$ —	\$ —	\$ 150,000	\$ (150,000) (1)	\$ —
Warehouse notes payable, net	—	933,909	—	933,909	—	933,909
Securities loaned	95,327	—	—	95,327	—	95,327
Accrued compensation	345,425	54,685	—	400,110	—	400,110
Payables to broker-dealers, clearing organizations, customers and related broker-dealers	1,488,148	8,699	—	1,496,847	—	1,496,847
Payables to related parties	39,349	705	—	40,054	—	40,054
Accounts payable, accrued and other liabilities	900,841	49,221	—	950,062	4,277 (1)(3)	954,339
Long-term debt	990,887	—	—	990,887	966,613 (1)	1,957,500
Total liabilities	4,009,977	1,047,219	—	5,057,196	820,890	5,878,086
Redeemable partnership interest	51,475	—	—	51,475	—	51,475
Equity						
Stockholders' equity:						
Class A common stock, par value \$0.01 per share	2,997	—	—	2,997	—	2,997
Class B common stock, par value \$0.01 per share	348	—	—	348	—	348
Additional paid-in capital	1,520,627	259,316	(63,285) (1)	1,716,658	(87,879) (1)(2)(4)	1,628,779
Contingent Class A common stock	38,316	—	—	38,316	—	38,316
Treasury stock, at cost	(297,378)	—	—	(297,378)	—	(297,378)
Retained earnings (deficit)	(415,053)	297,893	(102,719) (2)	(219,879)	(483,901) (1)(3)(4)	(703,780)
Accumulated other comprehensive income (loss)	(13,001)	—	—	(13,001)	—	(13,001)
Total stockholders' equity	836,856	557,209	(166,004)	1,228,061	(571,780)	656,281
Noncontrolling interest in subsidiaries	282,574	—	166,004 (1)(2)	448,578	(245,079) (1)(4)	203,499
Total equity	<u>1,119,430</u>	<u>557,209</u>	<u>—</u>	<u>1,676,639</u>	<u>(816,859)</u>	<u>859,780</u>
Total liabilities, redeemable partnership interest, and equity	<u>\$5,180,882</u>	<u>\$1,604,428</u>	<u>\$ —</u>	<u>\$6,785,310</u>	<u>\$ 4,031</u>	<u>\$6,789,341</u>

PRO FORMA CONDENSED CONSOLIDATED AND COMBINED STATEMENT OF OPERATIONS

For the Six Months Ended June 30, 2017

(in thousands, except per share data)

(unaudited)

	BGC Partners, Inc. Historical	Berkeley Point Financial LLC and Subsidiaries Adjusted Historical (Note 2)	Noncontrolling Interest in Subsidiaries and Inter- Company Transaction Adjustments (Note 3(c))		BGC Partners, Inc. Combined	The Berkeley Point Acquisition and the Borrowing Pro Forma Adjustments (Note 3(d))	BGC Partners, Inc. Pro Forma	
Revenues:								
Commissions	\$ 1,127,159	\$ —	\$ (4,267)	(1)	\$ 1,122,892	\$ —	\$ 1,122,892	
Principal transactions	166,103	—	—		166,103	—	166,103	
Gains from mortgage banking activities, net	—	114,777	4,031	(1)	118,808	—	118,808	
Real estate management services	102,219	—	—		102,219	—	102,219	
Servicing fees	—	51,672	—		51,672	—	51,672	
Fees from related parties	12,141	420	395	(2)	12,956	—	12,956	
Data, software and post-trade	26,409	—	—		26,409	—	26,409	
Interest income	9,304	19,879	—		29,183	—	29,183	
Other revenues	1,852	—	—		1,852	—	1,852	
Total revenues	1,445,187	186,748	159		1,632,094	—	1,632,094	
Expenses:								
Compensation and employee benefits	891,590	51,630	(236)	(1)	942,984	—	942,984	
Allocation of net income and grant of exchangeability to limited partnership units and FPU's	113,430	—	—		113,430	13,976	(3)	127,406
Total compensation and employee benefits	1,005,020	51,630	(236)		1,056,414	13,976	1,070,390	
Occupancy and equipment	99,159	1,981	—		101,140	—	101,140	
Fees to related parties	11,781	228	—		12,009	—	12,009	
Professional and consulting fees	40,316	4,245	—		44,561	—	44,561	
Communications	63,609	917	—		64,526	—	64,526	
Selling and promotion	52,774	1,901	—		54,675	—	54,675	
Commissions and floor brokerage	20,373	533	—		20,906	—	20,906	
Interest expense	31,497	13,756	—		45,253	19,081	(1)	64,334
Other expenses	58,747	33,915	—		92,662	—	92,662	
Total expenses	1,383,276	109,106	(236)		1,492,146	33,057	1,525,203	
Other income (losses), net:								
Gain (loss) on divestiture and sale of investments	557	—	—		557	—	557	
Gain (loss) on equity method investments	1,839	—	—		1,839	—	1,839	
Other income (loss)	9,944	(211)	—		9,733	—	9,733	
Total other income (losses), net	12,340	(211)	—		12,129	—	12,129	
Income (loss) from operations before income taxes	74,251	77,431	395		152,077	(33,057)	119,020	
Provision (benefit) for income taxes	23,206	24	—		23,230	10,726	(2)	33,956
Consolidated net income (loss)	\$ 51,045	\$ 77,407	\$ 395		\$ 128,847	\$ (43,783)	\$ 85,064	
Less: Net income (loss) attributable to noncontrolling interest in subsidiaries	11,062	—	28,040	(3)	39,102	(21,529)	(3)	17,573
Net income (loss) available to common stockholders	\$ 39,983	\$ 77,407	\$ (27,645)		\$ 89,745	\$ (22,254)	\$ 67,491	
Per share data:								
<i>Basic earnings per share</i>								
Net income (loss) available to common stockholders	\$ 39,983				\$ 89,745		\$ 67,491	
Basic earnings per share	\$ 0.14				\$ 0.31		\$ 0.24	
Basic weighted-average shares of common stock outstanding	285,129				285,129		285,129	
<i>Fully diluted earnings per share</i>								
Net income (loss) for fully diluted shares	\$ 60,704				\$ 138,506		\$ 103,719	
Fully diluted earnings per share	\$ 0.14				\$ 0.31		\$ 0.23	
Fully diluted weighted-average shares of common stock outstanding	448,347				448,347		448,347	

PRO FORMA CONDENSED CONSOLIDATED AND COMBINED STATEMENT OF OPERATIONS

For the Year Ended December 31, 2016

(in thousands, except per share data)

(unaudited)

	BGC Partners, Inc. Historical	Berkeley Point Financial LLC and Subsidiaries Adjusted Historical (Note 2)	Noncontrolling Interest in Subsidiaries and Inter- Company Transaction Adjustments (Note 3(c))		BGC Partners, Inc. Combined	The Berkeley Point Acquisition and the Borrowing Pro Forma Adjustments (Note 3(d))		BGC Partners, Inc. Pro Forma
Revenues:								
Commissions	\$ 1,994,227	\$ —	\$ (8,560)	(1)	\$ 1,985,667	\$ —		\$ 1,985,667
Principal transactions	325,481	—	—		325,481	—		325,481
Gains from mortgage banking activities, net	—	183,801	9,586	(1)	193,387	—		193,387
Real estate management services	196,801	—	—		196,801	—		196,801
Servicing fees	—	87,671	—		87,671	—		87,671
Fees from related parties	24,200	741	629	(2)	25,570	—		25,570
Data, software and post-trade	54,309	—	—		54,309	—		54,309
Interest income	12,271	21,605	—		33,876	—		33,876
Other revenues	5,334	—	—		5,334	—		5,334
Total revenues	2,612,623	293,818	1,655		2,908,096	—		2,908,096
Expenses:								
Compensation and employee benefits	1,653,613	78,568	1,026	(1)	1,733,207	—		1,733,207
Allocation of net income and grant of exchangeability to limited partnership units and FPU's	192,934	—	—		192,934	19,431	(3)	212,365
Total compensation and employee benefits	1,846,547	78,568	1,026		1,926,141	19,431		1,945,572
Occupancy and equipment	199,848	4,099	—		203,947	—		203,947
Fees to related parties	23,864	279	—		24,143	—		24,143
Professional and consulting fees	60,920	6,288	—		67,208	—		67,208
Communications	124,080	1,512	—		125,592	—		125,592
Selling and promotion	97,852	2,750	—		100,602	—		100,602
Commissions and floor brokerage	37,913	602	—		38,515	—		38,515
Interest expense	57,637	13,728	—		71,365	38,162	(1)	109,527
Other expenses	83,868	60,345	—		144,213	—		144,213
Total expenses	2,532,529	168,171	1,026		2,701,726	57,593		2,759,319
Other income (losses), net:								
Gain (loss) on divestiture and sale of investments	7,044	—	—		7,044	—		7,044
Gain (loss) on equity method investments	3,543	—	—		3,543	—		3,543
Other income (loss)	97,579	(366)	—		97,213	—		97,213
Total other income (losses), net	108,166	(366)	—		107,800	—		107,800
Income (loss) from operations before income taxes	188,260	125,281	629		314,170	(57,593)		256,577
Provision (benefit) for income taxes	60,252	80	—		60,332	24,909	(2)	85,241
Consolidated net income (loss)	\$ 128,008	\$ 125,201	\$ 629		\$ 253,838	\$ (82,502)		\$ 171,336
Less: Net income (loss) attributable to noncontrolling interest in subsidiaries	25,531	—	43,285	(3)	68,816	(32,991)	(3)	35,825
Net income (loss) available to common stockholders	\$ 102,477	\$ 125,201	\$ (42,656)		\$ 185,022	\$ (49,511)		\$ 135,511
Per share data:								
<i>Basic earnings per share</i>								
Net income (loss) available to common stockholders	\$ 102,477				\$ 185,022			\$ 135,511
Basic earnings per share	\$ 0.37				\$ 0.67			\$ 0.49
Basic weighted-average shares of common stock outstanding	277,073				277,073			277,073
<i>Fully diluted earnings per share</i>								
Net income (loss) for fully diluted shares	\$ 157,695				\$ 283,525			\$ 208,104
Fully diluted earnings per share	\$ 0.36				\$ 0.65			\$ 0.48
Fully diluted weighted-average shares of common stock outstanding	433,226				433,226			433,226

PRO FORMA CONDENSED CONSOLIDATED AND COMBINED STATEMENT OF OPERATIONS

For the Year Ended December 31, 2015

(in thousands, except per share data)

(unaudited)

	BGC Partners, Inc. Historical	Berkeley Point Financial LLC and Subsidiaries Adjusted Historical (Note 2)	Noncontrolling Interest in Subsidiaries and Inter- Company Transaction Adjustments (Note 3(c))		BGC Partners, Inc. Combined	The Berkeley Point Acquisition and the Borrowing Pro Forma Adjustments (Note 3(d))	BGC Partners, Inc. Pro Forma	
Revenues:								
Commissions	\$ 1,931,860	\$ —	\$ (1,947)	(1)	\$ 1,929,913	\$ —	\$ 1,929,913	
Principal transactions	313,142	—	—		313,142	—	313,142	
Gains from mortgage banking activities, net	—	113,357	1,947	(1)	115,304	—	115,304	
Real estate management services	187,118	—	—		187,118	—	187,118	
Servicing fees	—	74,356	—		74,356	—	74,356	
Fees from related parties	25,348	611	884	(2)	26,843	—	26,843	
Data, software and post-trade	102,371	—	—		102,371	—	102,371	
Interest income	10,643	14,099	—		24,742	—	24,742	
Other revenues	9,957	—	—		9,957	—	9,957	
Total revenues	2,580,439	202,423	884		2,783,746	—	2,783,746	
Expenses:								
Compensation and employee benefits	1,696,622	63,233	—		1,759,855	—	1,759,855	
Allocation of net income and grant of exchangeability to limited partnership units and FPU's	259,639	—	—		259,639	3,924	(3)	263,563
Total compensation and employee benefits	1,956,261	63,233	—		2,019,494	3,924	2,023,418	
Occupancy and equipment	218,026	3,760	—		221,786	—	221,786	
Fees to related parties	18,755	447	—		19,202	—	19,202	
Professional and consulting fees	66,382	7,202	—		73,584	—	73,584	
Communications	120,427	1,263	—		121,690	—	121,690	
Selling and promotion	97,437	2,610	—		100,047	—	100,047	
Commissions and floor brokerage	35,094	362	—		35,456	—	35,456	
Interest expense	69,359	9,670	—		79,029	38,162	(1)	117,191
Other expenses	138,199	56,135	—		194,334	—	194,334	
Total expenses	2,719,940	144,682	—		2,864,622	42,086	2,906,708	
Other income (losses), net:								
Gain (loss) on divestiture and sale of investments	394,347	—	—		394,347	—	394,347	
Gain (loss) on equity method investments	2,597	—	—		2,597	—	2,597	
Other income (loss)	123,168	(460)	—		122,708	—	122,708	
Total other income (losses), net	520,112	(460)	—		519,652	—	519,652	
Income (loss) from operations before income taxes	380,611	57,281	884		438,776	(42,086)	396,690	
Provision (benefit) for income taxes	120,496	123	—		120,619	5,620	(2)	126,239
Consolidated net income (loss)	\$ 260,115	\$ 57,158	\$ 884		\$ 318,157	\$ (47,706)	\$ 270,451	
Less: Net income (loss) attributable to noncontrolling interest in subsidiaries	138,797	—	19,401	(3)	158,198	(16,726)	(3)	141,472
Net income (loss) available to common stockholders	\$ 121,318	\$ 57,158	\$ (18,517)		\$ 159,959	\$ (30,980)	\$ 128,979	
Per share data:								
<i>Basic earnings per share</i>								
Net income (loss) available to common stockholders	\$ 121,318				\$ 159,959		\$ 128,979	
Basic earnings per share	\$ 0.50				\$ 0.66		\$ 0.53	
Basic weighted-average shares of common stock outstanding	243,460				243,460		243,460	
<i>Fully diluted earnings per share</i>								
Net income (loss) for fully diluted shares	\$ 161,596				\$ 177,972		\$ 171,336	
Fully diluted earnings per share	\$ 0.48				\$ 0.62		\$ 0.51	
Fully diluted weighted-average shares of common stock outstanding	335,387				286,322		335,387	

PRO FORMA CONDENSED CONSOLIDATED AND COMBINED STATEMENT OF OPERATIONS

For the Year Ended December 31, 2014

(in thousands, except per share data)

(unaudited)

	BGC Partners, Inc. Historical	Berkeley Point Financial LLC and Subsidiaries Adjusted Historical (Note 2)	Noncontrolling Interest in Subsidiaries and Inter- Company Transaction Adjustments (Note 3(c))		BGC Partners, Inc. Combined	The Berkeley Point Acquisition and the Borrowing Pro Forma Adjustments (Note 3(d))	BGC Partners, Inc. Pro Forma	
Revenues:								
Commissions	\$ 1,307,912	\$ —	\$ (228)	(1)	\$ 1,307,684	\$ —	\$ 1,307,684	
Principal transactions	253,951	—	—		253,951	—	253,951	
Gains from mortgage banking activities, net	—	79,377	374	(1)	79,751	—	79,751	
Real estate management services	163,227	—	—		163,227	—	163,227	
Servicing fees	—	49,053	—		49,053	—	49,053	
Fees from related parties	28,379	275	647	(2)	29,301	—	29,301	
Data, software and post-trade	11,565	—	—		11,565	—	11,565	
Interest income	7,313	7,345	—		14,658	—	14,658	
Other revenues	17,232	59	—		17,291	—	17,291	
Total revenues	1,789,579	136,109	793		1,926,481	—	1,926,481	
Expenses:								
Compensation and employee benefits	1,124,516	47,819	146	(1)	1,172,481	—	1,172,481	
Allocation of net income and grant of exchangeability to limited partnership units and FPU's	136,633	—	—		136,633	2,110	(3)	138,743
Total compensation and employee benefits	1,261,149	47,819	146		1,309,114	2,110	1,311,224	
Occupancy and equipment	154,854	2,959	—		157,813	—	157,813	
Fees to related parties	12,623	—	—		12,623	—	12,623	
Professional and consulting fees	52,598	3,645	—		56,243	—	56,243	
Communications	83,184	953	—		84,137	—	84,137	
Selling and promotion	72,032	1,737	—		73,769	—	73,769	
Commissions and floor brokerage	19,349	219	—		19,568	—	19,568	
Interest expense	37,945	5,265	—		43,210	27,811	(1)	71,021
Other expenses	151,065	34,709	—		185,774	—	185,774	
Total expenses	1,844,799	97,306	146		1,942,251	29,921	1,972,172	
Other income (losses), net:								
Gain (loss) on divestiture and sale of investments	—	—	—		—	—	—	
Gain (loss) on equity method investments	(7,969)	—	—		(7,969)	—	(7,969)	
Other income (loss)	49,427	(585)	—		48,842	—	48,842	
Total other income (losses), net	41,458	(585)	—		40,873	—	40,873	
Income (loss) from operations before income taxes	(13,762)	38,218	647		25,103	(29,921)	(4,818)	
Provision (benefit) for income taxes	651	90	—		741	3,376	(2)	4,117
Consolidated net income (loss)	\$ (14,413)	\$ 38,128	\$ 647		\$ 24,362	\$ (33,297)	\$ (8,935)	
Less: Net income (loss) attributable to noncontrolling interest in subsidiaries	(11,363)	—	12,854	(3)	1,491	(11,322)	(3)	(9,831)
Net income (loss) available to common stockholders	\$ (3,050)	\$ 38,128	\$ (12,207)		\$ 22,871	\$ (21,975)	\$ 896	
Per share data:								
<i>Basic earnings per share</i>								
Net income (loss) available to common stockholders	\$ (3,050)				\$ 22,871		\$ 896	
Basic earnings per share	\$ (0.01)				\$ 0.10		\$ 0.00	
Basic weighted-average shares of common stock outstanding	220,697				220,697		220,697	
<i>Fully diluted earnings per share</i>								
Net income (loss) for fully diluted shares	\$ (3,050)				\$ 33,889		\$ 1,125	
Fully diluted earnings per share	\$ (0.01)				\$ 0.10		\$ 0.00	
Fully diluted weighted-average shares of common stock outstanding	220,697				328,455		328,455	

**NOTES TO UNAUDITED PRO FORMA CONDENSED CONSOLIDATED AND COMBINED FINANCIAL
INFORMATION**

1. Basis of Presentation

The following BGC Partners, Inc.'s ("our," "BGC," or the "Company") unaudited pro forma condensed consolidated and combined financial information has been compiled from underlying financial statements prepared pursuant to the rules and regulations of the U.S. Securities and Exchange Commission (the "SEC") and in conformity with accounting principles generally accepted in the United States of America ("U.S. GAAP"). They reflect the closing on the below transactions pursuant to a Transaction Agreement, dated as of July 17, 2017 (the "Transaction Agreement"), on September 8, 2017 (the "Closing"), by BGC and one of our operating partnerships, BGC Partners, L.P., with Cantor Fitzgerald, L.P. ("Cantor") and certain of Cantor's affiliates, including Cantor Commercial Real Estate Company, L.P. (the "Partnership"), Cantor Commercial Real Estate Sponsor, L.P., the general partner of the Partnership, CF Real Estate Finance Holdings, L.P., a newly formed entity (the "Real Estate LP"), and CF Real Estate Finance Holdings GP, LLC, the general partner of the Real Estate LP. Under the terms of the Transaction Agreement:

- At the Closing, the Company purchased and acquired from the Partnership all of the outstanding membership interests of Berkeley Point Financial LLC ("Berkeley Point"), a wholly owned subsidiary of the Partnership that is a leading commercial real estate finance company focused on the origination and sale of multifamily and other commercial real estate loans through government-sponsored and government-funded loan programs, as well as the servicing of commercial real estate loans, for an acquisition price of \$875 million, subject to upward or downward adjustment to the extent that the net assets of Berkeley Point as of the Closing are greater than or less than \$508.6 million (the "Berkeley Point Acquisition"). At the Closing, the Company paid \$2.8 million of the \$875 million acquisition price in units of BGC Holdings, L.P. ("BGC Holdings"), which may be exchanged over time for shares of Class A common stock of BGC (the "Class A common stock"), with each BGC Holdings unit valued for these purposes at the volume weighted-average price of a share of Class A common stock for the three trading days prior to the Closing. The Berkeley Point Acquisition did not include the Special Asset Servicing Group (the "servicing group") of Berkeley Point; however, Berkeley Point will continue to hold the servicing group's assets until the servicing group is transferred to the Partnership at a later date in a separate transaction. Accordingly, the Partnership will continue to bear the benefits and burdens of the servicing group from and after the Closing.
- At the Closing, the Company also invested \$100 million, for approximately 27% of the capital (the "Company Investment"), and Cantor invested \$266.67 million, for approximately 73% of the capital (the "Cantor Investment"), in the Real Estate LP. The Company Investment and the Cantor investment were made in the form of cash. The Real Estate LP, which is controlled by Cantor, was newly formed for the purpose of conducting activities in any real estate-related business or asset-backed securities-related business or any extensions thereof and ancillary activities thereto.

Following the Closing, BGC will consolidate the results of Berkeley Point in our financial statements, and account for our non-controlling interest in the Real Estate LP as an equity method investment, which will not be consolidated in our financial statements. Berkeley Point and our interest in the Real Estate LP are part of our Real Estate Services segment.

In addition, on September 8, 2017, the Company entered into \$975 million of credit facilities (the "Borrowing"), comprising a \$575 million senior term loan credit facility and a \$400 million senior revolving credit facility (together, the "Credit Agreements"). The Borrowing under the Credit Agreements bears interest at either LIBOR plus an applicable margin dependent on the Company's debt rating as determined by Standard & Poor's ("S&P") and Fitch, or a defined base rate equal to the greatest of: (i) the federal funds rate plus 0.5%, (ii) the prime rate as established by Bank of America, N.A., the Administrative Agent, and (iii) LIBOR plus 1.0%, in each case plus an applicable margin dependent on the Company's debt rating as determined by S&P and Fitch. The Credit Agreements currently bear interest at a rate of 3.485%. The Credit Agreements will mature on September 8, 2019. BGC used the net proceeds of the Borrowing to fund the Berkeley Point Acquisition and the Company Investment.

The unaudited pro forma condensed consolidated and combined financial information should be read in conjunction with:

- The accompanying notes to the unaudited pro forma condensed consolidated and combined financial statements;
- BGC's unaudited condensed consolidated financial statements included in the Company's Quarterly Report on Form 10-Q as of June 30, 2017 and December 31, 2016 and for the three and six months ended June 30, 2017 and 2016;
- BGC's audited consolidated financial statements included in the Company's Annual Report on Form 10-K as of December 31, 2016 and 2015 and for the years ended December 31, 2016, 2015, and 2014;

- Berkeley Point Financial LLC’s unaudited consolidated financial statements as of June 30, 2017 and December 31, 2016 and for the six months ended June 30, 2017 and 2016, and audited consolidated financial statements as of December 31, 2016 and 2015 (Successor) and for the years ended December 31, 2016 and 2015 (Successor) and for the periods April 10, 2014 through December 31, 2014 (Successor) and January 1, 2014 through April 9, 2014 (Predecessor), included as Exhibit 99.1 to this Current Report on Form 8-K; and
- The “Risk Factors” section of the Company’s Annual Report on Form 10-K for the year ended December 31, 2016 and any updates to those risk factors or new risk factors contained in the Company’s subsequent Quarterly Reports on Form 10-Q and Current Reports on Form 8-K filed with the SEC.

The following unaudited pro forma condensed consolidated and combined financial information is presented in accordance with the rules specified by Article 11 of Regulation S-X (“Article 11”) promulgated by the SEC, and has been prepared subject to the assumptions and adjustments as described in these notes. The unaudited pro forma condensed consolidated and combined statement of financial condition gives effect to the Berkeley Point Acquisition and the Borrowing, as if they had occurred on June 30, 2017. The unaudited pro forma condensed consolidated and combined statements of operations for the six months ended June 30, 2017 and for the years ended December 31, 2016, 2015 and 2014 give effect to the Berkeley Point Acquisition and the Borrowing, as if they had occurred on April 10, 2014 (the date the Partnership acquired Berkeley Point). As Cantor owns a controlling interest in both BGC and the Partnership, the parties involved in the Berkeley Point Acquisition, this presentation is in accordance with the Financial Accounting Standards Board Accounting Standards Codification Subtopic 805-50-45 – *Transactions Between Entities Under Common Control*, as well as Article 11. The unaudited pro forma condensed consolidated and combined statement of financial condition as of June 30, 2017 also reflects the effects of the Company Investment in the Real Estate LP, as if it had occurred on June 30, 2017. Given that the Real Estate LP was newly formed at the closing, the unaudited pro forma condensed consolidated and combined statements of operations for the six months ended June 30, 2017 and the years ended December 31, 2016, 2015, and 2014 do not reflect any operations of the Real Estate LP.

The following unaudited pro forma condensed consolidated and combined financial information is for illustrative and informational purposes only and is not necessarily indicative of the financial condition or results of operations of the Company that would have occurred if the Berkeley Point Acquisition, the Borrowing, and the Company Investment had occurred on the dates indicated, nor is it indicative of the future financial condition or results of operations of the combined Company. The unaudited pro forma condensed consolidated and combined financial information does not give effect to any potential cost savings or operational efficiencies that could result from the Berkeley Point Acquisition. In addition, the unaudited pro forma condensed consolidated and combined financial information does not include any adjustments associated with non-recurring events unrelated to the Berkeley Point Acquisition, the Borrowing, or the Company Investment.

2. Reconciliation of Historical Berkeley Point Consolidated Statement of Financial Condition and Statements of Operations

In order to report pro forma information representative of the combined companies BGC and Berkeley Point for the Berkeley Point Acquisition, the Berkeley Point historical unaudited consolidated statement of financial condition as of June 30, 2017, its unaudited consolidated statements of operations for the six months ended June 30, 2017, and its audited consolidated statements of operations for the years ended December 31, 2016 and 2015 and for the period April 10, 2014 through December 31, 2014, have been conformed to BGC’s standard reporting presentation. The tables below are the reconciliations showing the reclassifications from Berkeley Point’s historical reporting presentation to BGC’s reporting presentation.

Reclassifications for Berkeley Point Consolidated Statement of Financial Condition as of June 30, 2017:

	Berkeley Point Financial LLC and Subsidiaries Historical (unaudited)	Reclassifications	Berkeley Point Financial LLC and Subsidiaries Adjusted Historical (unaudited)
Assets			
Cash and cash equivalents	\$ 61,458	\$ —	\$ 61,458
Cash segregated under regulatory requirements	52,111	—	52,111
Loans held for sale	933,850	—	933,850
Receivables from broker-dealers, clearing organizations, customers and related broker-dealers	19,265	—	19,265
Credit enhancement receivable	12	(12) (1)	—
Mortgage services rights, net	376,427	—	376,427
Accrued commissions and other receivables, net	—	18,259 (2)	18,259
Loans, forgivable loans and other receivables from employees and partners, net	—	2,983 (2)	2,983
Loan receivables from related parties	—	130,000 (3)	130,000
Fixed assets, net	—	1,354 (2)	1,354
Goodwill	191	—	191
Other intangible assets, net	5,458	(18) (4)	5,440
Receivables from related parties	129,311	(129,295) (3)	16
Other assets	25,640	(22,566) (5)	3,074
Total assets	<u>\$ 1,603,723</u>	<u>\$ 705</u>	<u>\$ 1,604,428</u>
Liabilities, Redeemable Partnership Interest, and Equity			
Warehouse notes payable, net	\$ 933,909	\$ —	\$ 933,909
Accrued compensation	—	54,685 (6)	54,685
Payables to broker-dealers, clearing organizations, customers and related broker-dealers	8,699	—	8,699
Payables to related parties	—	705 (3)	705
Accounts payable, accrued and other liabilities	62,359	(13,138) (8)	49,221
Borrower deposits	5,740	(5,740) (7)	—
Financial guarantee liability	200	(200) (7)	—
Credit enhancement deposit	25,000	(25,000) (7)	—
Contingent liability	10,607	(10,607) (7)	—
Total liabilities	<u>1,046,514</u>	<u>705</u>	<u>1,047,219</u>
Equity			
Additional paid-in capital	557,209	(297,893) (9)	259,316
Retained earnings (deficit)	—	297,893 (9)	297,893
Total stockholders' equity	<u>557,209</u>	<u>—</u>	<u>557,209</u>
Total equity	<u>557,209</u>	<u>—</u>	<u>557,209</u>
Total liabilities, redeemable partnership interest, and equity	<u>\$ 1,603,723</u>	<u>\$ 705</u>	<u>\$ 1,604,428</u>

Notes:

- (1) Reclassification of Berkeley Point's Credit enhancement receivable to Other assets.
- (2) Reclassification of Berkeley Point's receivables, employee loans, and Fixed assets, net, from Other assets to their respective BGC line items.

- (3) Reclassification of Berkeley Point's \$130.0 million note receivable from the Partnership and a \$0.7 million inter-company payable to the Partnership from Receivables from related parties to Loan receivables from related parties and Payables to related parties, respectively. On March 11, 2015, Berkeley Point and the Partnership entered into a note receivable/payable (the "Berkeley Point and the Partnership Inter-Company Note") that allows for advances to or from the Partnership at an interest rate of one-month LIBOR plus 1.0%. As of June 30, 2017, there was \$130.0 million outstanding advances from the Partnership on the Berkeley Point and the Partnership Inter-Company Note.
- (4) Reclassification of Berkeley Point's favorable lease asset from Other intangible assets, net to Other assets.
- (5) Offset of reclassifications from Notes 1, 2 and 4 above.
- (6) Reclassification of Berkeley Point's accrued compensation from Accounts payable, accrued and other liabilities to Accrued compensation.
- (7) Reclassification of Berkeley Point's Borrower deposits, Financial guarantee liability, Credit enhancement deposit, and Contingent liability to Accounts payable, accrued and other liabilities.
- (8) Offset of reclassifications from Notes 6 and 7 above.
- (9) Reclassification of Berkeley Point's retained earnings from Additional paid-in capital to Retained earnings (deficit).

Reclassifications for Berkeley Point Consolidated Statements of Operations for the following periods:

	For the Six Months Ended June 30, 2017		
	Berkeley Point Financial LLC and Subsidiaries Historical (unaudited)	Reclassifications	Berkeley Point Financial LLC and Subsidiaries Adjusted Historical (unaudited)
Revenues:			
Gains from mortgage banking activities, net	\$ 114,777	\$ —	\$ 114,777
Servicing fees	51,672	—	51,672
Fees from related parties	—	420 (1)	420
Interest income	19,879	—	19,879
Total revenues	186,328	420	186,748
Expenses:			
Compensation and employee benefits	51,210	420 (1)	51,630
Total compensation and employee benefits	51,210	420	51,630
Occupancy and equipment	—	1,981 (2)(5)	1,981
Fees to related parties	—	228 (2)	228
Professional and consulting fees	—	4,245 (2)	4,245
Communications	—	917 (2)	917
Selling and promotion	—	1,901 (2)	1,901
Commissions and floor brokerage	—	533 (2)	533
Interest expense	13,967	(211) (3)	13,756
Provision for risk-sharing obligations	(63)	63 (4)	—
Amortization and depreciation	33,157	(33,157) (5)	—
Other expenses	10,626	23,289 (5)(6)	33,915
Total expenses	108,897	209	109,106
Other income (losses), net:			
Other income (loss)	—	(211) (3)	(211)
Total other income (losses), net	—	(211)	(211)
Income (loss) from operations before income taxes	77,431	—	77,431
Provision (benefit) for income taxes	24	—	24
Consolidated net income (loss)	<u>\$ 77,407</u>	<u>\$ —</u>	<u>\$ 77,407</u>

	For the Year Ended December 31, 2016		
	Berkeley Point Financial LLC and Subsidiaries Historical	Reclassifications	Berkeley Point Financial LLC and Subsidiaries Adjusted Historical
Revenues:			
Gains from mortgage banking activities, net	\$ 183,801	\$ —	\$ 183,801
Servicing fees	87,671	—	87,671
Fees from related parties	—	741 (1)	741
Interest income	21,605	—	21,605
Total revenues	293,077	741	293,818
Expenses:			
Compensation and employee benefits	77,827	741 (1)	78,568
Total compensation and employee benefits	77,827	741	78,568
Occupancy and equipment	—	4,099 (2)(5)	4,099
Fees to related parties	—	279 (2)	279
Professional and consulting fees	—	6,288 (2)	6,288
Communications	—	1,512 (2)	1,512
Selling and promotion	—	2,750 (2)	2,750
Commissions and floor brokerage	—	602 (2)	602
Interest expense	14,094	(366) (3)	13,728
Provision for risk-sharing obligations	231	(231) (4)	—
Amortization and depreciation	58,848	(58,848) (5)	—
Other expenses	16,796	43,549 (5)(6)	60,345
Total expenses	167,796	375	168,171
Other income (losses), net:			
Other income (loss)	—	(366) (3)	(366)
Total other income (losses), net	—	(366)	(366)
Income (loss) from operations before income taxes			
	125,281	—	125,281
Provision (benefit) for income taxes	80	—	80
Consolidated net income (loss)	<u>\$ 125,201</u>	<u>\$ —</u>	<u>\$ 125,201</u>

	For the Year Ended December 31, 2015		
	Berkeley Point Financial LLC and Subsidiaries Historical	Reclassifications	Berkeley Point Financial LLC and Subsidiaries Adjusted Historical
Revenues:			
Gains from mortgage banking activities, net	\$ 113,357	\$ —	\$ 113,357
Servicing fees	74,356	—	74,356
Fees from related parties	—	611 (1)	611
Interest income	14,099	—	14,099
Total revenues	201,812	611	202,423
Expenses:			
Compensation and employee benefits	62,622	611 (1)	63,233
Total compensation and employee benefits	62,622	611	63,233
Occupancy and equipment	—	3,760 (2)(5)	3,760
Fees to related parties	—	447 (2)	447
Professional and consulting fees	—	7,202 (2)	7,202
Communications	—	1,263 (2)	1,263
Selling and promotion	—	2,610 (2)	2,610
Commissions and floor brokerage	—	362 (2)	362
Interest expense	10,130	(460) (3)	9,670
Provision for risk-sharing obligations	(81)	81 (4)	—
Amortization and depreciation	55,130	(55,130) (5)	—
Other expenses	16,730	39,405 (5)(6)	56,135
Total expenses	144,531	151	144,682
Other income (losses), net:			
Other income (loss)	—	(460) (3)	(460)
Total other income (losses), net	—	(460)	(460)
Income (loss) from operations before income taxes			
	57,281	—	57,281
Provision (benefit) for income taxes	123	—	123
Consolidated net income (loss)	\$ 57,158	\$ —	\$ 57,158

	For the Period April 10, 2014 through December 31, 2014		
	Berkeley Point Financial LLC and Subsidiaries Historical	Reclassifications	Berkeley Point Financial LLC and Subsidiaries Adjusted Historical
Revenues:			
Gains from mortgage banking activities, net	\$ 79,377	\$ —	\$ 79,377
Servicing fees	49,053	—	49,053
Fees from related parties	—	275 (1)	275
Interest income	7,345	—	7,345
Other revenues	59	—	59
Total revenues	135,834	275	136,109
Expenses:			
Compensation and employee benefits	47,544	275 (1)	47,819
Total compensation and employee benefits	47,544	275	47,819
Occupancy and equipment	—	2,959 (2)(5)	2,959
Professional and consulting fees	—	3,645 (2)	3,645
Communications	—	953 (2)	953
Selling and promotion	—	1,737 (2)	1,737
Commissions and floor brokerage	—	219 (2)	219
Interest expense	5,850	(585) (3)	5,265
Provision for risk-sharing obligations	48	(48) (4)	—
Amortization and depreciation	34,002	(34,002) (5)	—
Other expenses	10,172	24,537 (5)(6)	34,709
Total expenses	97,616	(310)	97,306
Other income (losses), net:			
Other income (loss)	—	(585) (3)	(585)
Total other income (losses), net	—	(585)	(585)
Income (loss) from operations before income taxes			
	38,218	—	38,218
Provision (benefit) for income taxes	90	—	90
Consolidated net income (loss)	\$ 38,128	\$ —	\$ 38,128

Notes:

- (1) Reclassification of Berkeley Point's charge to the Partnership for certain employees from Compensation and employee benefits to Fees from related parties.
- (2) Reclassification of Berkeley Point's Occupancy and equipment, Fees to related parties, Professional and consulting fees, Communications, Selling and promotion, and Commissions and floor brokerage expenses from Other expenses to their respective BGC line items.
- (3) Reclassification of Berkeley Point's present value adjustment on its Contingent liability from Interest expense to Other income (loss).
- (4) Reclassification of Berkeley Point's Provision for risk-sharing obligations to Other expenses.
- (5) Reclassifications include the following:
 - Berkeley Point Amortization and depreciation of \$0.2 million for the six months ended June 30, 2017 and \$0.7 million, \$0.6 million, and \$0.6 million for the years and period ended December 31, 2016, 2015, and 2014, respectively, related to Fixed assets, net reclassified to Occupancy and equipment; and
 - Berkeley Point Amortization and depreciation of \$32.9 million for the six months ended June 30, 2017 and \$58.1 million, \$54.5 million, and \$33.4 million for the years and period ended December 31, 2016, 2015, and 2014, respectively, related to Mortgage services rights, net and Other intangible assets, net reclassified to Other expenses.
- (6) Offset of reclassifications from Notes 2, 4, and 5 above.

3. The Berkeley Point Acquisition, the Borrowing, the Company Investment and Related Adjustments

The following notes relate to the unaudited pro forma condensed consolidated and combined statement of financial condition as of June 30, 2017:

- (a) Represents the following:
 - (1) Adjustment to reflect the noncontrolling interest in the historical capital of Berkeley Point.
 - (2) The economic interests in BGC Holdings, which are not owned by the Company, are reflected as a component of Noncontrolling interest in subsidiaries in the Company's unaudited pro forma condensed consolidated and combined statements of financial condition. Such interests receive allocations of net income (loss), and are reflected as a component of Net income (loss) attributable to noncontrolling interest in subsidiaries in the Company's unaudited pro forma condensed consolidated and combined statements of operations. This adjustment reflects the allocations of net income for the Berkeley Point Acquisition to Noncontrolling interest in subsidiaries, with an offsetting impact to Retained earnings (deficit).
- (b) Represents the following:
 - (1) Includes the following transactions:
 - i. As a result of the Berkeley Point Acquisition, BGC paid a total consideration of \$875 million, comprising \$872.2 million of cash, decreasing Cash and cash equivalents, and \$2.8 million of BGC Holdings units, increasing Additional paid-in capital and Noncontrolling interest in subsidiaries.
 - ii. BGC paid a cash consideration of \$100 million related to the Company Investment. The Company Investment will be accounted for as an equity method investment.
 - iii. On April 21, 2017, the Company entered into a \$150.0 million revolving credit facility with an affiliate of Cantor, in which BGC agreed to lend \$150.0 million to such affiliate. As of June 30, 2017, this revolving credit facility was fully drawn. The adjustment reflects the repayment of the \$150.0 million revolving credit facility by Cantor to BGC, with an offsetting decrease in Loan receivables from related parties.
 - iv. The Company received \$975 million of proceeds from the Borrowing, thereby increasing Long-term debt.
 - v. On February 25, 2016, the Company entered into a \$150.0 million revolving credit agreement with Bank of America, N.A., under which there were \$150.0 million of borrowings outstanding as of June 30, 2017. This adjustment reflects the repayment of the \$150.0 million revolving credit agreement by BGC to Bank of America, N.A., with an offsetting decrease in Short-term borrowings.
 - vi. In conjunction with the close of the Berkeley Point Acquisition, Berkeley Point and the Partnership settled the Berkeley Point and the Partnership Inter-Company Note. As of June 30, 2017, Berkeley Point had a \$130.0 million note receivable from the Partnership. The adjustment reflects cash received of \$130.0 million, with an offsetting decrease in Loan receivables from related parties.
 - vii. Pursuant to the Transaction Agreement, Berkeley Point made a cash distribution for the amount that Berkeley Point's closing net assets exceeded \$508.6 million. If the Berkeley Point Acquisition had closed as of June 30, 2017, Berkeley Point would have made a cash distribution of \$48.6 million, with an offsetting impact to Retained earnings (deficit).
 - viii. BGC had financing costs of approximately \$8.4 million related to the Borrowing. The Company paid \$6.1 million that was due at the closing of the Borrowing and accrued \$2.3 million due post-closing in Accounts payable, accrued and other liabilities. These costs are netted against the Credit Agreements in Long-term debt.
 - (2) Upon the Closing of the Berkeley Point Acquisition, the Company recorded a \$106.0 million Deferred tax asset to reflect the tax benefit to be realized, consisting of the difference between the book and tax basis, increasing Other assets and Additional paid-in capital.
 - (3) To reflect a \$2.0 million legal, accounting, and advisory fees accrual related to the Berkeley Point Acquisition in Accounts payable, accrued and other liabilities.
 - (4) The Company recorded a distribution of capital to the Partnership of \$875 million, which reflects the acquisition price, for the Berkeley Point Acquisition, decreasing Additional paid-in capital, Noncontrolling interest in subsidiaries, and Retained earnings (deficit).

The following notes relate to the unaudited pro forma condensed consolidated and combined statements of operations for the six months ended June 30, 2017 and for the years ended December 31, 2016, 2015, and 2014:

(c) Represents the following:

- (1) The Company has a referral agreement in place with Berkeley Point, in which BGC's brokers are incentivized to refer business to Berkeley Point through a revenue-share agreement. These adjustments are to reflect the elimination of inter-company transactions between the Company and Berkeley Point.
- (2) To reflect the revenues net of expenses that are retained by the Partnership related to the servicing group.
- (3) To reflect in Net income (loss) attributable to noncontrolling interest in subsidiaries, the impact of the Berkeley Point Acquisition and the above adjustments on allocations of net income to noncontrolling interest in subsidiaries.

(d) Represents the following:

- (1) To record the interest on the Borrowing and the amortization of financing costs as a result of the Borrowing. If the interest rate on the Credit Agreements were to vary by 0.125%, Interest expense would increase/decrease by \$0.6 million for the six months ended June 30, 2017, \$1.2 million for each of the years ended December 31, 2016 and 2015, and \$0.9 million for the year ended December 31, 2014, assuming the Borrowing was entered into on April 10, 2014.
- (2) To reflect the corporate tax adjustment for the Berkeley Point Acquisition and the Borrowing.
- (3) The reflect in Allocation of net income and grant of exchangeability to limited partnership units and FPU's and Net income (loss) attributable to noncontrolling interest in subsidiaries, the impact of the Berkeley Point Acquisition and above items on allocations of net income to limited partnership units, FPU's, and noncontrolling interest in subsidiaries.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF PRO FORMA FINANCIAL CONDITION AND PRO FORMA RESULTS OF OPERATIONS

Management's Discussions and Analysis of Pro Forma Financial Condition and Pro Forma Results of Operations is for the unaudited pro forma condensed consolidated and combined financial information, and reflects all assumptions and adjustments therein, including the effects of the Berkeley Point Acquisition and the Borrowing on BGC's statement of financial condition as of June 30, 2017, as if they had occurred on June 30, 2017, and on BGC's statements of operations for the six months ended June 30, 2017 and for the years ended December 31, 2016, 2015, and 2014, as if the Berkeley Point Acquisition and the Borrowing had occurred on April 10, 2014, when Berkeley Point was acquired by the Partnership, and the effects of the Company Investment in the Real Estate LP, as if it had occurred on June 30, 2017. Given that the Real Estate LP was newly formed at the Closing, the unaudited pro forma condensed consolidated and combined statements of operations for the six months ended June 30, 2017 and the years ended December 31, 2016, 2015, and 2014 do not reflect and operations of the Real Estate LP. Management believes that the assumptions used and adjustments made are reasonable under the circumstances and given the information available.

This Management's Discussion and Analysis of the unaudited pro forma condensed consolidated and combined financial information should be read in conjunction with:

- The accompanying notes to the unaudited pro forma condensed consolidated and combined financial statements;
- BGC's unaudited condensed consolidated financial statements included in the Company's Quarterly Report on Form 10-Q as of June 30, 2017 and December 31, 2016 and for the three and six months ended June 30, 2017 and 2016;
- BGC audited consolidated financial statements included in the Company's Annual Report on Form 10-K as of December 31, 2016 and 2015 and for the years ended December 31, 2016, 2015, and 2014;
- Berkeley Point Financial LLC's unaudited consolidated financial statements as of June 30, 2017 and December 31, 2016 and for the six months ended June 30, 2017 and 2016, and audited consolidated financial statements as of December 31, 2016 and 2015 (Successor) and for the years ended December 31, 2016 and 2015 (Successor) and for the periods April 10, 2014 through December 31, 2014 (Successor) and January 1, 2014 through April 9, 2014 (Predecessor), included as Exhibit 99.1 to this Current Report on Form 8-K; and
- The "Risk Factors" section of the Company's Annual Report on Form 10-K for the year ended December 31, 2016 and any updates to those risk factors or new risk factors contained in the Company's subsequent Quarterly Reports on Form 10-Q and Current Reports on Form 8-K filed with the U.S. Securities and Exchange Commission (the "SEC").

PRO FORMA RESULTS OF OPERATIONS

The following table sets forth BGC Partners, Inc. (“our,” “BGC,” or the “Company”) unaudited pro forma condensed consolidated and combined statements of operations data expressed as a percentage of total revenues for the period indicated (in thousands):

	Six Months Ended June 30, 2017	
	Pro Forma Results	Percentage of Total Revenues
Revenues:		
Commissions	\$ 1,122,892	68.8%
Principal transactions	166,103	10.2
Total brokerage revenues	1,288,995	79.0
Gains from mortgage banking activities, net	118,808	7.3
Real estate management services	102,219	6.2
Servicing fees	51,672	3.2
Fees from related parties	12,956	0.8
Data, software and post-trade	26,409	1.6
Interest income	29,183	1.8
Other revenues	1,852	0.1
Total revenues	1,632,094	100.0
Expenses:		
Compensation and employee benefits	942,984	57.8
Allocations of net income and grant of exchangeability to limited partnership units and FPU's	127,406	7.8
Total compensation and employee benefits	1,070,390	65.6
Occupancy and equipment	101,140	6.2
Fees to related parties	12,009	0.7
Professional and consulting fees	44,561	2.7
Communications	64,526	4.0
Selling and promotion	54,675	3.3
Commissions and floor brokerage	20,906	1.3
Interest expense	64,334	3.9
Other expenses	92,662	5.7
Total expenses	1,525,203	93.4
Other income (losses), net:		
Gain (loss) on divestiture and sale of investments	557	0.0
Gains (losses) on equity method investments	1,839	0.1
Other income (loss)	9,733	0.6
Total other income (losses), net	12,129	0.7
Income (loss) from operations before income taxes	119,020	7.3
Provision (benefit) for income taxes	33,956	2.1
Consolidated net income (loss)	85,064	5.2
Less: Net income (loss) attributable to noncontrolling interest in subsidiaries	17,573	1.1
Net income (loss) available to common stockholders	\$ 67,491	4.1%

Pro Forma Six Months Ended June 30, 2017

Revenues

Brokerage Revenues

Total brokerage revenues were \$1,289.0 million for the six months ended June 30, 2017. Commission revenues were \$1,122.9 million for the six months ended June 30, 2017. Principal transactions revenues were \$166.1 million for the six months ended June 30, 2017.

Our rates revenues were \$269.2 million for the six months ended June 30, 2017.

Our credit revenues were \$152.6 million for the six months ended June 30, 2017.

Our FX revenues were \$159.7 million for the six months ended June 30, 2017.

Our brokerage revenues from energy and commodities was \$101.6 million for the six months ended June 30, 2017.

Our brokerage revenues from equities, insurance, and other asset classes was \$161.0 million for the six months ended June 30, 2017.

Leasing and other services revenues were \$272.3 million for the six months ended June 30, 2017.

Real estate capital markets revenues were \$172.6 million for the six months ended June 30, 2017.

Gains from mortgage banking activities, net

Gains from mortgage banking activities were \$118.8 million for the six months ended June 30, 2017.

Real Estate Management Services

Real estate management services revenue were \$102.2 million for the six months ended June 30, 2017.

Servicing fees

Servicing fees were \$51.7 million for the six months ended June 30, 2017.

Fees from Related Parties

Fees from related parties were \$13.0 million for the six months ended June 30, 2017.

Data, Software and Post-Trade

Data, software and post-trade revenues were \$26.4 million for the six months ended June 30, 2017.

Interest Income

Interest income was \$29.2 million for the six months ended June 30, 2017.

Other Revenues

Other revenues were \$1.9 million for the six months ended June 30, 2017.

Expenses

Compensation and Employee Benefits

Compensation and employee benefits expense was \$943.0 million for the six months ended June 30, 2017.

Allocations of Net Income and Grant of Exchangeability to Limited Partnership Units and FPU's

Allocations of net income and grant of exchangeability to limited partnership units and FPU's was \$127.4 million for the six months ended June 30, 2017.

Occupancy and Equipment

Occupancy and equipment expense was \$101.1 million for the six months ended June 30, 2017.

Fees to Related Parties

Fees to related parties were \$12.0 million for the six months ended June 30, 2017.

Professional and Consulting Fees

Professional and consulting fees were \$44.6 million for the six months ended June 30, 2017.

Communications

Communications expense was \$64.5 million for the six months ended June 30, 2017.

Selling and Promotion

Selling and promotion expense was \$54.7 million for the six months ended June 30, 2017.

Commissions and Floor Brokerage

Commissions and floor brokerage expenses were \$20.9 million for the six months ended June 30, 2017.

Interest Expense

Interest expense was \$64.3 million for the six months ended June 30, 2017.

Other Expenses

Other expenses were \$92.7 million for the six months ended June 30, 2017.

Other Income (Losses), net

Gain (Loss) on Divestiture and Sale of Investments

We had a gain on divestiture of \$0.6 million in the six months ended June 30, 2017, as a result of the sale of investments.

Gains (Losses) on Equity Method Investments

Gains (losses) on equity method investments were a gain of \$1.8 million, for the six months ended June 30, 2017.

Other Income (Loss)

Other income (loss) was \$9.7 million for the six months ended June 30, 2017.

Provision (Benefit) for Income Taxes

Provision (benefit) for income taxes was \$34.0 million for the six months ended June 30, 2017.

Net Income (Loss) Attributable to Noncontrolling Interest in Subsidiaries

Net income (loss) attributable to noncontrolling interest in subsidiaries was \$17.6 million for the six months ended June 30, 2017.

The following table sets forth BGC's unaudited pro forma condensed consolidated and combined statements of operations data expressed as a percentage of total revenues for the years indicated (in thousands):

	Year Ended December 31,					
	2016		2015		2014	
	Pro Forma Results	Percentage of Total Revenues	Pro Forma Results	Percentage of Total Revenues	Pro Forma Results	Percentage of Total Revenues
Revenues:						
Commissions	\$1,985,667	68.3%	\$1,929,913	69.3%	\$1,307,684	67.9%
Principal transactions	325,481	11.2	313,142	11.2	253,951	13.2
Total brokerage revenues	2,311,148	79.5	2,243,055	80.5	1,561,635	81.1
Gains from mortgage banking activities, net	193,387	6.6	115,304	4.1	79,751	4.1
Real estate management services	196,801	6.8	187,118	6.7	163,227	8.5
Servicing fees	87,671	3.0	74,356	2.7	49,053	2.5
Fees from related parties	25,570	0.9	26,843	1.0	29,301	1.5
Data, software and post-trade	54,309	1.9	102,371	3.7	11,565	0.6
Interest income	33,876	1.1	24,742	0.9	14,658	0.8
Other revenues	5,334	0.2	9,957	0.4	17,291	0.9
Total revenues	2,908,096	100.0	2,783,746	100.0	1,926,481	100.0
Expenses:						
Compensation and employee benefits	1,733,207	59.6	1,759,855	63.2	1,172,481	60.9
Allocations of net income and grant of exchangeability to limited partnership units and FPU's	212,365	7.3	263,563	9.5	138,743	7.2
Total compensation and employee benefits	1,945,572	66.9	2,023,418	72.7	1,311,224	68.1
Occupancy and equipment	203,947	7.0	221,786	8.0	157,813	8.2
Fees to related parties	24,143	0.8	19,202	0.7	12,623	0.7
Professional and consulting fees	67,208	2.3	73,584	2.6	56,243	2.9
Communications	125,592	4.3	121,690	4.4	84,137	4.4
Selling and promotion	100,602	3.5	100,047	3.6	73,769	3.8
Commissions and floor brokerage	38,515	1.3	35,456	1.3	19,568	1.0
Interest expense	109,527	3.8	117,191	4.2	71,021	3.7
Other expenses	144,213	5.0	194,334	7.0	185,774	9.6
Total expenses	2,759,319	94.9	2,906,708	104.5	1,972,172	102.4
Other income (losses), net:						
Gain (loss) on divestiture and sale of investments	7,044	0.2	394,347	14.2	—	—
Gains (losses) on equity method investments	3,543	0.1	2,597	0.1	(7,969)	(0.4)
Other income (loss)	97,213	3.4	122,708	4.4	48,842	2.5
Total other income (losses), net	107,800	3.7	519,652	18.7	40,873	2.1
Income (loss) from operations before income taxes	256,577	8.8	396,690	14.2	(4,818)	(0.3)
Provision (benefit) for income taxes	85,241	2.9	126,239	4.5	4,117	0.2
Consolidated net income (loss)	171,336	5.9	270,451	9.7	(8,935)	(0.5)
Less: Net income (loss) attributable to noncontrolling interest in subsidiaries	35,825	1.2	141,472	5.1	(9,831)	(0.5)
Net income (loss) available to common stockholders	\$ 135,511	4.7%	\$ 128,979	4.6%	\$ 896	0.0%

Revenues

Brokerage Revenues

Total brokerage revenues increased by \$68.1 million, or 3.0%, to \$2,311.1 million for the year ended December 31, 2016 as compared to the year ended December 31, 2015. Commission revenues increased by \$55.8 million, or 2.9%, to \$1,985.7 million for the year ended December 31, 2016 as compared to the year ended December 31, 2015. Principal transactions revenues increased by \$12.3 million, or 3.9%, to \$325.5 million for the year ended December 31, 2016 as compared to the year ended December 31, 2015.

The increase in brokerage revenues was primarily driven by increases in revenues from real estate capital markets brokerage, energy & commodities, credit and equities and other, partially offset by lower revenues in leasing and other services, foreign exchange and rates.

Our rates revenues decreased by \$2.4 million, or 0.5%, to \$468.8 million in the year ended December 31, 2016. The decrease in rates revenues was primarily due to industry-wide declines in wholesale market activity.

Our credit revenues increased by \$20.2 million, or 7.4%, to \$291.8 million in the year ended December 31, 2016. This increase was mainly due to expansion of the business into new sectors and an uptick in fully electronic credit brokerage.

Our FX revenues decreased by \$21.5 million, or 6.6%, to \$303.3 million for the year ended December 31, 2016. This decrease was primarily driven by lower global volumes.

Our brokerage revenues from energy and commodities increased by \$26.7 million, or 13.6%, to \$222.9 million for the year ended December 31, 2016. This increase was primarily driven by our acquisition of GFI Group Inc. (“GFI”).

Our brokerage revenues from equities and other asset classes increased by \$2.7 million, or 1.5%, to \$175.0 million for the year ended December 31, 2016. This increase was primarily driven by our acquisition of GFI.

Leasing and other services revenues decreased by \$25.9 million, or 4.8%, to \$513.8 million for the year ended December 31, 2016 as compared to the prior year period. This decrease was primarily driven by lower volumes. According to Newmark Knight Frank (“NKF”) Research, leasing activity during 2016 was down by more than 5% relative to the prior year.

Real estate capital markets revenues increased by \$68.4 million, or 25.6%, to \$335.6 million for the year ended December 31, 2016 as compared to the prior year period. This increase was primarily driven by organic growth as recent new hires increased their productivity and came despite lower industry volumes.

Gains from mortgage banking activities, net

Gains from mortgage banking activities, net revenues increased by \$78.1 million, or 67.7%, to \$193.4 million for the year ended December 31, 2016. This increase was primarily driven by an increase in Berkeley Point loan origination volume.

Real Estate Management Services

Real estate management services revenue increased by \$9.7 million, or 5.2%, to \$196.8 million for the year ended December 31, 2016 primarily due to organic growth.

Servicing fees

Servicing fees revenue increased by \$13.3 million, or 17.9%, to \$87.7 million for the year ended December 31, 2016 as compared to the year ended December 31, 2015. The increase was primarily driven by an increase in Berkeley Point loan originations for which the servicing rights were retained.

Fees from Related Parties

Fees from related parties decreased by \$1.3 million, or 4.7%, to \$25.6 million for the year ended December 31, 2016 as compared to the year ended December 31, 2015.

Data, Software and Post-Trade

Data, software and post-trade revenues decreased by \$48.1 million, or 46.9%, to \$54.3 million for the year ended December 31, 2016 as compared to the year ended December 31, 2015. The decrease was primarily driven by the sale of Trayport (the “Trayport Transaction”), to Intercontinental Exchange, Inc. (“ICE”) for 2,527,658 shares of ICE common stock (the “ICE shares”), which generated \$58.6 million of net revenues in 2015.

Interest Income

Interest income increased by \$9.1 million, or 36.9%, to \$33.9 million for the year ended December 31, 2016 as compared to the year ended December 31, 2015. This increase was primarily due to an increase in interest income from Loans held for sale and employee loans.

Other Revenues

Other revenues decreased by \$4.6 million, or 46.4%, to \$5.3 million for the year ended December 31, 2016 as compared to the year ended December 31, 2015. The decrease was primarily due to decreases in dividends on investments and miscellaneous recoveries.

Expenses

Compensation and Employee Benefits

Compensation and employee benefits expense decreased by \$26.6 million, or 1.5%, to \$1,733.2 million for the year ended December 31, 2016 as compared to the year ended December 31, 2015. The main drivers of this decrease were cost savings associated with the GFI synergies.

Allocations of Net Income and Grant of Exchangeability to Limited Partnership Units and FPU's

Allocations of net income and grant of exchangeability to limited partnership units and FPU's decreased by \$51.2 million, or 19.4%, to \$212.4 million for the year ended December 31, 2016 as compared to the year ended December 31, 2015. This decrease was primarily driven by a decrease in exchangeability charges partially offset by an increase in allocation of net income to limited partnership units during the year ended December 31, 2016 as compared to the year ended December 31, 2015.

Occupancy and Equipment

Occupancy and equipment expense decreased by \$17.8 million, or 8.0%, to \$203.9 million for the year ended December 31, 2016 as compared to the year ended December 31, 2015. This decrease was primarily driven by a decrease in fixed asset impairment charges resulting from the synergies associated with the integration of GFI in 2015.

Fees to Related Parties

Fees to related parties increased by \$4.9 million, or 25.7%, to \$24.1 million for the year ended December 31, 2016 as compared to the year ended December 31, 2015. Fees to related parties are allocations paid to Cantor for administrative and support services (such as accounting, occupancy, and legal).

Professional and Consulting Fees

Professional and consulting fees decreased by \$6.4 million, or 8.7%, to \$67.2 million for the year ended December 31, 2016 as compared to the year ended December 31, 2015. In the year earlier period, there were increased expenses in this category with respect to the acquisition of GFI and the sale of Trayport.

Communications

Communications expense increased by \$3.9 million, or 3.2%, to \$125.6 million for the year ended December 31, 2016 as compared to the year ended December 31, 2015. As a percentage of total revenues, communications remained relatively unchanged across the two periods.

Selling and Promotion

Selling and promotion expense increased by \$0.6 million, or 0.6%, to \$100.6 million for the year ended December 31, 2016 as compared to the year ended December 31, 2015. As a percentage of total revenues, selling and promotion remained relatively unchanged across the two periods.

Commissions and Floor Brokerage

Commissions and floor brokerage expense increased by \$3.1 million, or 8.6%, to \$38.5 million for the year ended December 31, 2016 as compared to the year ended December 31, 2015. This line item tends to move in line with Financial Services brokerage revenues.

Interest Expense

Interest expense decreased by \$7.7 million, or 6.5%, to \$109.5 million for the year ended December 31, 2016 as compared to the year ended December 31, 2015. The decrease was primarily driven by lower interest rates on the 8.375% Senior Notes due to the improved credit rating following the BGC Guarantee, as well as a decrease in interest expense due to the maturity of 4.50% Convertible Senior Notes, partially offset by the interest expense on the 5.125% Senior Notes issued on May 27, 2016 and an increase in interest expense on Warehouse notes payable, net.

Other Expenses

Other expenses decreased by \$50.1 million, or 25.8%, to \$144.2 million for the year ended December 31, 2016 as compared to the year ended December 31, 2015, primarily related to commitments during the year ended December 31, 2015 to make charitable contributions.

Other Income (Losses), net

Gain (Loss) on Divestiture and Sale of Investments

We had a gain on divestiture of \$7.0 million in the year ended December 31, 2016, as a result of the sale of investments. For the year ended December 31, 2015, there was a gain on divestiture of \$394.3 million primarily related to the disposition of the Trayport business, which was completed on December 11, 2015.

Gains (Losses) on Equity Method Investments

Gains (losses) on equity method investments increased by \$0.9 million, or 36.4%, to a gain of \$3.5 million, for the year ended December 31, 2016 as compared to a gain of \$2.6 million for the year ended December 31, 2015. Gains (losses) on equity method investments represent our pro rata share of the net gains or losses on investments over which we have significant influence but which we do not control.

Other Income (Loss)

Other income (loss) decreased by \$25.5 million, or 20.8%, to \$97.2 million for the year ended December 31, 2016 as compared to the year ended December 31, 2015. The \$25.5 million year-over-year decrease was primarily due to the \$29.0 million gain recorded in 2015 on the GFI shares owned by us prior to the completion of the tender offer, the mark-to-market on ICE shares (\$6.8 million in 2016 compared to \$16.3 million in 2015), and other acquisition related adjustments partially offset by \$18.3 million related to an adjustment of future earn-out payments that will no longer be required and the earn-out of Nasdaq, Inc. ("Nasdaq") common stock and the related mark-to-market and/or hedging (\$78.7 million in 2016 compared to \$68.0 million in 2015) from the sale of the eSpeed business to Nasdaq in June 2013 (the "Nasdaq Transaction").

Provision (Benefit) for Income Taxes

Provision (benefit) for income taxes decreased by \$41.0 million, or 32.5%, to \$85.2 million for the year ended December 31, 2016 as compared to the year ended December 31, 2015. This decrease was primarily driven by a decrease in pre-tax earnings as a result of the gain recognized on the Trayport Transaction for the year ended December 31, 2015. In general, our consolidated effective tax rate can vary from period to period depending on, among other factors, the geographic and business mix of our earnings.

Net Income (Loss) Attributable to Noncontrolling Interest in Subsidiaries

Net income (loss) attributable to noncontrolling interest in subsidiaries decreased by \$105.6 million, or 74.7%, to \$35.8 million, for the year ended December 31, 2016 as compared to the year ended December 31, 2015.

Pro Forma Year Ended December 31, 2015 Compared to Year Ended December 31, 2014

Revenues

Brokerage Revenues

Total brokerage revenues increased by \$681.4 million, or 43.6%, for the year ended December 31, 2015 as compared to the year ended December 31, 2014. Commission revenues increased by \$622.2 million, or 47.6%, for the year ended December 31, 2015 as compared to the year ended December 31, 2014. Principal transactions revenues increased by \$59.2 million, or 23.3%, for the year ended December 31, 2015 as compared to the year ended December 31, 2014.

The increase in brokerage revenues was primarily driven by the addition of GFI, the ongoing success of NKF, our Real Estate Services segment, and the continued strong double digit growth of our high margin FENICS fully electronic businesses.

The increase in rates revenues of \$59.0 million was primarily due to the acquisition of GFI.

Our fully electronic credit revenues increased by \$29.9 million as compared to the year ended December 31, 2014, and our overall credit revenues increased by 26.0% to \$271.6 million in the year ended December 31, 2015. This increase was mainly due to our acquisition of GFI.

Our FX revenues were up by 44.4% to \$324.8 million for the year ended December 31, 2015. This increase was primarily driven by growth across our voice, hybrid, and fully electronic desks most notably in our e-brokered foreign exchange spot and derivative products. Our acquisitions of GFI and R.P. Martin also contributed to the increase.

Our brokerage revenues from energy and commodities increased \$140.4 million, or 251.7%, to \$196.2 million for the year ended December 31, 2015. This increase was primarily driven by our acquisition of GFI and organic growth.

Our brokerage revenues from equities and other asset classes increased \$61.9 million, or 56.1%, to \$172.3 million for the year ended December 31, 2015. This increase was primarily driven by our acquisition of GFI.

Leasing and other services revenues increased by \$122.0 million, or 29.2%, to \$539.7 million for the year ended December 31, 2015 as compared to the prior year period. This increase was primarily driven by strong commercial real estate market fundamentals.

Real estate capital markets revenues increased by \$142.3 million, or 113.9%, to \$267.2 million for the year ended December 31, 2015 as compared to the prior year period. This increase was primarily driven by the acquisition of Apartment Realty Advisors (“ARA”).

Gains from mortgage banking activities, net

Gains from mortgage banking activities, net revenues increased by \$35.6 million, or 44.6%, to \$115.3 million for the year ended December 31, 2015. This increase was primarily driven by an increase in loan origination volume related to the Berkeley Point Acquisition.

Real Estate Management Services

Real estate management services revenue increased \$23.9 million, or 14.6%, for the year ended December 31, 2015. This increase was primarily driven by our acquisition of Computerized Facility Integration (“CFI”).

Servicing fees

Servicing fees revenue increased by \$25.3 million, or 51.6%, to \$74.4 million for the year ended December 31, 2015 as compared to the year ended December 31, 2014. The increase was primarily driven by an increase in loan originations for which the servicing rights were retained.

Fees from Related Parties

Fees from related parties decreased by \$2.5 million, or 8.4%, for the year ended December 31, 2015 as compared to the year ended December 31, 2014.

Data, Software and Post-Trade

Data, software and post-trade revenues increased by \$90.8 million, or 785.2%, for the year ended December 31, 2015 as compared to the year ended December 31, 2014. The increase was primarily driven by our acquisition of GFI.

Interest Income

Interest income increased by \$10.1 million, or 68.8%, to \$24.7 million for the year ended December 31, 2015 as compared to the year ended December 31, 2014. This increase was primarily due to an increase in interest income from Loans held for sale related to the acquisition of Berkeley Point.

Other Revenues

Other revenues decreased by \$7.3 million, or 42.4%, to \$10.0 million for the year ended December 31, 2015 as compared to the year ended December 31, 2014. The decrease was primarily due to a settlement related to litigation received during the year ended December 31, 2014.

Expenses

Compensation and Employee Benefits

Compensation and employee benefits expense increased by \$587.4 million, or 50.1%, for the year ended December 31, 2015 as compared to the year ended December 31, 2014. The main driver of this increase was the increased level of brokerage revenues particularly related to the GFI acquisition and the growth in our Real Estate Services business, as well as a reserve taken against employee loans.

Allocations of Net Income and Grant of Exchangeability to Limited Partnership Units and FPU's

The Allocations of net income and grant of exchangeability to limited partnership units and FPU's increased by \$124.8 million, or 90.0%, for the year ended December 31, 2015 as compared to the year ended December 31, 2014. This increase was primarily driven by an increase in charges related to grants of exchangeability to limited partnership units during the year as compared to the year ended December 31, 2014.

Occupancy and Equipment

Occupancy and equipment expense increased \$64.0 million, 40.5%, to \$221.8 million for the year ended December 31, 2015, as compared to the year ended December 31, 2014. This increase was primarily driven by the acquisition of GFI and the acquisitions of Cornish & Carey and ARA in our Real Estate Services segment.

Fees to Related Parties

Fees to related parties increased by \$6.6 million, or 52.1%, for the year ended December 31, 2015 as compared to the year ended December 31, 2014. Fees to related parties are allocations paid to Cantor for administrative and support services.

Professional and Consulting Fees

Professional and consulting fees increased by \$17.3 million, or 30.8%, to \$73.6 million for the year ended December 31, 2015 as compared to the year ended December 31, 2014. The increase was primarily driven by the acquisition of GFI.

Communications

Communications expense increased by \$37.6 million, or 44.6%, for the year ended December 31, 2015 as compared to the year ended December 31, 2014. This increase was primarily driven by the acquisition of GFI. As a percentage of total revenues, communications remained relatively unchanged across the two periods.

Selling and Promotion

Selling and promotion expense increased by \$26.3 million, or 35.6%, for the year ended December 31, 2015 as compared to the year ended December 31, 2014. The increase was primarily due to the acquisition of GFI.

Commissions and Floor Brokerage

Commissions and floor brokerage expense increased by \$15.9 million, or 81.2%, for the year ended December 31, 2015 as compared to the year ended December 31, 2014, primarily due to the acquisition of GFI.

Interest Expense

Interest expense increased by \$46.2 million, or 65.0%, to \$117.2 million for the year ended December 31, 2015 as compared to the year ended December 31, 2014. The increase was primarily driven by the interest expense associated with our 5.375% Senior Notes issued in December 2014, the \$975 million Borrowing assumed to have been made on April 10, 2014, and the 8.375% Senior Notes acquired in the GFI acquisition in February 2015, partially offset by the maturity of the 8.75% Convertible Senior Notes on April 15, 2015.

Other Expenses

Other expenses increased by \$8.6 million, or 4.6%, for the year ended December 31, 2015 as compared to the year ended December 31, 2014, primarily related to an increase in commitments to make charitable contributions and an increase in amortization expense related to mortgage servicing rights due to the Berkeley Point Acquisition, partially offset by an increase in commitments to make charitable contributions.

Other Income (Losses), net

Gain (Loss) on Divestiture and Sale of Investments

The gain (loss) on divestiture and sale of investments is primarily related to the disposition of the Trayport business, which was completed on December 11, 2015.

Gains (Losses) on Equity Method Investments

Gains (losses) on equity method investments increased by \$10.6 million, to a gain of \$2.6 million, for the year ended December 31, 2015 as compared to a loss of \$8.0 million for the year ended December 31, 2014. Gains (losses) on equity method investments represent our pro rata share of the net gains or losses on investments over which we have significant influence but which we do not control.

Other Income (Loss)

Other income (loss) increased \$73.9 million, or 151.2%, to \$122.7 million for the year ended December 31, 2015 as compared to the year ended December 31, 2014. This increase was primarily driven by the recognition of the Nasdaq transaction earn-out and the related mark-to-market movements and/or hedging associated with the Nasdaq and ICE shares as well as a \$29.0 million gain with respect to appreciation on the 17.1 million shares of GFI common stock held by the Company prior to the successful completion of our tender offer.

Provision (Benefit) for Income Taxes

Provision (benefit) for income taxes increased \$122.1 million to \$126.2 million for the year ended December 31, 2015 as compared to the year ended December 31, 2014. This increase was primarily driven by the increase in pretax earnings. Our consolidated effective tax rate can vary from period to period depending on, among other factors, the geographic and business mix of our earnings.

Net Income (Loss) Attributable to Noncontrolling Interest in Subsidiaries

Net income (loss) attributable to noncontrolling interest in subsidiaries increased by \$151.3 million, to \$141.5 million, for the year ended December 31, 2015 as compared to the year ended December 31, 2014. This increase was due to the increase in allocation of net income to Cantor units in the year ended December 31, 2015. Also contributing to this increase was the allocation of GFI income to noncontrolling interests.

Pro Forma Business Segment Financial Results

The business segments are determined based on the products and services provided and reflect the manner in which financial information is evaluated by management. We evaluate the performance and review the results of the segments based on each segment's "Income (loss) from operations before income taxes."

Certain unaudited pro forma condensed consolidated and combined financial information for our segments is presented below. The amounts shown below for the Financial Services and Real Estate Services segments reflect the amounts that are used by management to allocate resources and assess performance, which is based on each segment's "Income (loss) from operations before income taxes." In addition to the two business segments, the tables below include a "Corporate Items" category. Corporate revenues include fees from related parties and interest income. Corporate expenses include non-cash compensation expenses (such as the grant of exchangeability to limited partnership units, redemption/exchange of partnership units, issuance of restricted shares and allocations of net income to founding/working partner units and limited partnership units), as well as unallocated expenses, such as certain professional and consulting fees, executive compensation and interest expense, which are managed separately at the corporate level. Corporate other income (losses), net includes gains that are not considered part of the Company's ordinary, ongoing business, such as the realized gain related to the GFI shares owned by the Company prior to the completion of the tender offer to acquire GFI on February 26, 2015, the gain related to the disposition of the equity interests in the entities that make up the Trayport business, the mark-to-market on ICE common shares and any related hedging transactions when applicable, and the adjustment of future earn-out payments.

Pro Forma Six Months Ended June 30, 2017 (in thousands):

	<u>Financial Services</u>	<u>Real Estate Services</u>	<u>Corporate Items</u>	<u>Total</u>
Total revenues	\$873,495	\$ 740,181	\$ 18,418	\$1,632,094
Total expenses	705,485	606,810	212,908	1,525,203
Total other income (losses), net	8,717	—	3,412	12,129
Income (loss) from operations before income taxes	<u>\$176,727</u>	<u>\$ 133,371</u>	<u>\$(191,078)</u>	<u>\$ 119,020</u>

Pro Forma Segment Results for the Six Months Ended June 30, 2017

Revenues

- Revenues for Financial Services were \$873.5 million for the six months ended June 30, 2017.
- Revenues for Real Estate Services were \$740.2 million for the six months ended June 30, 2017.

Expenses

- Total expenses for Financial Services were \$705.5 million for the six months ended June 30, 2017.
- Total expenses for Real Estate Services were \$606.8 million for the six months ended June 30, 2017.
- Total expenses for the Corporate Items category were \$212.9 million for the six months ended June 30, 2017.

Other income (losses), net

- Other income (losses), net, for Financial Services was a gain of \$8.7 million for the six months ended June 30, 2017.
- Other income (losses), net, for the Corporate Items category was a gain of \$3.4 million for the six months ended June 30, 2017.

Income (loss) from operations before income taxes

- Income (loss) from operations before income taxes for Financial Services was \$176.7 million for the six months ended June 30, 2017.
- Income (loss) from operations before income taxes for Real Estate Services was \$133.4 million for the six months ended June 30, 2017.

Pro Forma Year Ended December 31, 2016 (in thousands):

	<u>Financial Services</u>	<u>Real Estate Services</u>	<u>Corporate Items</u>	<u>Total</u>
Total revenues	\$1,523,235	\$1,353,795	\$ 31,066	\$2,908,096
Total expenses	1,275,397	1,101,446	382,476	2,759,319
Total other income (losses), net	78,701	—	29,099	107,800
Income (loss) from operations before income taxes	<u>\$ 326,539</u>	<u>\$ 252,349</u>	<u>\$(322,311)</u>	<u>\$ 256,577</u>

Pro Forma Year Ended December 31, 2015 (in thousands):

	<u>Financial Services</u>	<u>Real Estate Services</u>	<u>Corporate Items</u>	<u>Total</u>
Total revenues	\$1,548,159	\$1,201,757	\$ 33,830	\$2,783,746
Total expenses	1,331,309	1,011,551	563,848	2,906,708
Total other income (losses), net	68,033	—	451,619	519,652
Income (loss) from operations before income taxes	<u>\$ 284,883</u>	<u>\$ 190,206</u>	<u>\$(78,399)</u>	<u>\$ 396,690</u>

Pro Forma Year Ended December 31, 2014 (in thousands):

	<u>Financial Services</u>	<u>Real Estate Services</u>	<u>Corporate Items</u>	<u>Total</u>
Total revenues	\$1,046,431	\$ 845,695	\$ 34,355	\$1,926,481
Total expenses	877,149	737,109	357,914	1,972,172
Total other income (losses), net	52,769	—	(11,896)	40,873
Income (loss) from operations before income taxes	<u>\$ 222,051</u>	<u>\$ 108,586</u>	<u>\$(335,455)</u>	<u>\$ (4,818)</u>

Pro Forma Segment Results for the Year Ended December 31, 2016 Compared to Year Ended December 31, 2015

Revenues

- Revenues for Financial Services decreased approximately \$24.9 million, or 1.6%, to \$1,523.2 million for the year ended December 31, 2016 from \$1,548.2 million for the year ended December 31, 2015. The decrease was primarily due to lower data, software and post-trade revenues due to the sale of Trayport as well as lower volumes across global foreign exchange markets, partially offset by the addition of GFI, as well as strong growth from fully electronic credit brokerage and the data, software and post-trade businesses. Additionally, the Company reduced the number of less productive brokers and salespeople in Financial Services by approximately 120 as compared to last year, reducing revenues but increasing profitability.
- Revenues for Real Estate Services increased approximately \$152.0 million, or 12.7%, to \$1,353.8 million for the year ended December 31, 2016 from \$1,201.8 million for the year ended December 31, 2015, primarily driven by a 67.7% increase in gains from mortgage banking activities due to an increase in loan origination volume, an almost entirely organic 25.6% increase in revenue from high margin real estate capital markets brokerage as recent new hires increased their productivity, and a 17.9% increase in servicing fees.

Expenses

- Total expenses for Financial Services decreased approximately \$55.9 million, or 4.2%, to \$1,275.4 million for the year ended December 31, 2016 from \$1,331.3 million for the year ended December 31, 2015. The decrease in expenses for our Financial Services segment was primarily due to continued cost savings related to GFI synergies, as well as lower compensation expense resulting from lower brokerage revenues.
- Total expenses for Real Estate Services increased approximately \$89.9 million, or 8.9%, to \$1,101.4 million for the year ended December 31, 2016 from \$1,011.6 million for the year ended December 31, 2015. The increase in expenses for our Real Estate Services segment was primarily due to increased compensation associated with acquisitions and new hires.
- Total expenses for the Corporate Items category decreased approximately \$181.4 million, or 32.2%, to \$382.5 million for the year ended December 31, 2016 from \$563.8 million for the year ended December 31, 2015. This was primarily due to higher exchangeability charges, a reserve related to a commitment to make charitable contributions, and charges related to amortization of intangibles and impairment charges in the year ended December 31, 2015.

Other income (losses), net

- Other income (losses), net, for Financial Services increased approximately \$10.7 million, or 15.7%, to a gain of \$78.7 million for the year ended December 31, 2016 from a gain of \$68.0 million for the year ended December 31, 2015. The increase in other income (losses), net, for our Financial Services segment was primarily due to the recognition of the earn-out on the Nasdaq transaction and the mark-to-market movements and/or hedging on the Nasdaq earn-out shares.
- Other income (losses), net, for the Corporate Items category decreased approximately \$422.5 million, or 93.6%, to a gain of \$29.1 million for the year ended December 31, 2016 from a gain of \$451.6 million for the year ended December 31, 2015. The other income (losses), net for the Corporate Items category for the year ended December 31, 2015 was primarily due to the disposition of the Trayport business, which was completed on December 11, 2015.

Income (loss) from operations before income taxes

- Income (loss) from operations before income taxes for Financial Services increased approximately \$41.6 million, or 14.6%, to \$326.5 million for the year ended December 31, 2016 from \$284.9 million for the year ended December 31, 2015. The increase in income (loss) from operations before income taxes is primarily due to cost synergies from the GFI acquisition and growth in Fenics.
- Income (loss) from operations before income taxes for Real Estate Services increased \$62.1 million, or 32.7%, to \$252.3 million for the year ended December 31, 2016 from \$190.2 million for the year ended December 31, 2015, primarily due to gains from mortgage banking activities, partially offset by costs associated with investments in the business.

Pro Forma Segment Results for the Year Ended December 31, 2015 Compared to Year Ended December 31, 2014

Revenues

- Revenues for Financial Services increased approximately \$501.7 million, or 47.9%, to \$1,548.2 million for year ended December 31, 2015 from \$1,046.4 million for the year ended December 31, 2014. The increase in revenues for our Financial Services segment was primarily due to an increase in brokerage revenues in energy and commodities, foreign exchange, rates and credit, as well as an increase in equities and other asset classes, and an increase in data, software and post-trade primarily driven by the acquisitions of GFI and R.P. Martin, as well as by organic growth from our desks in foreign exchange, energy and commodities.
- Revenues for Real Estate Services increased approximately \$356.1 million, or 42.1%, to \$1,201.8 million for the year ended December 31, 2015 from \$845.7 million for the year ended December 31, 2014. The increase in revenues for our Real Estate Services segment was primarily due to the acquisitions of Cornish & Carey, ARA, and Berkeley Point, an increase in broker productivity along with favorable industry trends in sales and leasing for the U.S. commercial real estate market, an increase in gains from mortgage banking activities, and an increase in servicing fees.

Expenses

- Total expenses for Financial Services increased approximately \$454.2 million, or 51.8%, to \$1,331.3 million for the year ended December 31, 2015 from \$877.1 million for the year ended December 31, 2014. The increase in expenses for our Financial Services Segment was primarily due to the acquisition of GFI and R.P. Martin.
- Total expenses for Real Estate Services increased approximately \$274.4 million, or 37.2%, to \$1,011.6 million for the year ended December 31, 2015 from \$737.1 million for the year ended December 31, 2014. The increase in expenses for our Real Estate Services segment was primarily due to increased compensation associated with acquisitions.
- Total expenses for the Corporate Items category increased approximately \$205.9 million, or 57.5%, to \$563.8 million for the year ended December 31, 2015 from \$357.9 million for the year ended December 31, 2014. The increase in expenses for Corporate Items was primarily due to increases in charges related to grants of exchangeability to limited partnership units during the year as compared to the year ended December 31, 2014 as well as a reserve on employee loans and a commitment to make charitable contributions.

Other income (losses), net

- Other income (losses), net, for Financial Services increased approximately \$15.3 million, or 28.9% to a gain of \$68.0 million for the year ended December 31, 2015 from a gain of \$52.8 million for the year ended December 31, 2014. The increase in other income (losses), net, for our Financial Services segment was primarily due to the earn-out portion and the related mark-to-market movements and/or hedging of the Nasdaq transaction consideration.
- Other income (losses), net, for the Corporate Items category increased approximately \$463.5 million to a gain of \$451.6 million for the year ended December 31, 2015 from a loss of \$11.9 million for the year ended December 31, 2014. The increase in other income (losses), net, for the Corporate Items category was primarily due to the disposition of the Trayport business, which was completed on December 11, 2015.

Income from operations before income taxes

- Income from operations before income taxes for Financial Services increased approximately \$62.8 million, or 28.3%, to \$284.9 million for the year ended December 31, 2015 from \$222.1 million for the year ended December 31, 2014. The increase in income from operations before income taxes for our Financial Services segment was primarily due to our acquisition of GFI.
- Income from operations before income taxes for Real Estate Services increased \$81.6 million, or 75.2%, to \$190.2 million for the year ended December 31, 2015 from \$108.6 million for the year ended December 31, 2014. The increase in income from operations before income taxes for our Real Estate Services segment was due to our acquisitions of Cornish & Carey, ARA, CFI, Excess Space Retail Services, Inc., and Berkeley Point.

LIQUIDITY AND CAPITAL RESOURCES

Pro Forma Balance Sheet

Our operating business model and pro forma balance sheet are not capital intensive. Our pro forma assets consist largely of cash, collateralized and uncollateralized short-dated receivables, Marketable securities, Loans held for sale, Mortgage services rights, net, and less liquid assets needed to support our business. Our pro forma Longer-term capital (Equity and Long-term debt) is held to support the less liquid assets and potential capital intensive opportunities.

Our pro forma Total assets, as of June 30, 2017, were \$6.8 billion. We maintain a significant portion of our assets in cash and Marketable securities, with our pro forma liquidity (which we define as Cash and cash equivalents, Reverse repurchase agreements, Marketable securities and Securities owned, less Securities loaned and Repurchase agreements) at June 30, 2017 of \$709.2 million.

For the purposes of this analysis, the following transactions are assumed to have occurred on June 30, 2017: On September 8, 2017, the Company closed on the Berkeley Point Acquisition, for a total consideration of \$875 million. Contemporaneously with the closing of the Berkeley Point Acquisition, the Company invested \$100 million in cash in the Company Investment in a newly formed commercial real estate-related finance and investment business (the "Real Estate LP"), along with Cantor. Cantor controls the Real Estate LP and contributed approximately \$267 million of cash for approximately 73% of the Real Estate LP's capital. Berkeley Point and the Company Investment are part of NKF, the Company's Real Estate Services segment.

Also on September 8, 2017, the Company entered into the \$975 million Borrowing, comprising a \$575 million unsecured senior term loan credit facility (the "Term Loan Facility") and a \$400 million unsecured senior revolving credit facility (together, the "Credit Agreements"). The Borrowing under the Credit Agreements bears interest at either LIBOR plus an applicable margin dependent on the Company's debt rating as determined by Standard & Poor's ("S&P") and Fitch, or a defined base rate equal to the greatest of: (i) the federal funds rate plus 0.5%, (ii) the prime rate as established by Bank of America, N.A., the Administrative Agent, and (iii) LIBOR plus 1.0%, in each case plus an applicable margin dependent on the Company's debt rating as determined by S&P and Fitch. The Credit Agreements currently bear interest at a rate of 3.485%. The Credit Agreements will mature on September 8, 2019. BGC used the net proceeds of the Borrowing to fund the Berkeley Point Acquisition and the Company Investment. In addition, a portion of the Borrowing was used to repay in full the outstanding balance of \$150 million under the Company's previously existing revolving credit agreement, dated as of February 25, 2016, with Bank of America, N.A. On the same date, the \$150 million revolving credit facility between Cantor and BGC was repaid to BGC. BGC expects to repay the Borrowing from future financing arrangements, existing financing sources, cash on hand, and/or future equity issuances. We intend to remain investment-grade.

The Credit Agreements contain financial covenants with respect to minimum net worth, minimum net excess capital and minimum interest coverage, as well as a maximum leverage ratio. The Credit Agreements also contain certain other customary affirmative and negative covenants and events of default. The Term Loan Facility is also subject to mandatory prepayment, with 100% of net cash proceeds of all material asset sales and debt and equity issuances (subject to customary exceptions, including sales under the Company's CEO sales program) required to be applied to reduce outstanding amounts under the Term Loan Facility until it is repaid in full.

Pro Forma Funding

Our pro forma funding base consists of longer-term capital (Equity and Long-term debt), Warehouse notes payable, net, shorter-term liabilities and accruals that are a natural outgrowth of specific assets and/or our business model, such as matched fails and accrued compensation. We have limited need for short-term unsecured funding in our regulated entities for their brokerage business. Contingent liquidity needs are largely limited to potential cash collateral that may be needed to meet clearing bank, clearinghouse, and exchange margins and/or to fund fails. Capital expenditures tend to be cash neutral and approximately in line with depreciation. We believe that cash in and available to our largest regulated entities, inclusive of financing provided by clearing banks, is adequate for potential cash demands of normal operations, such as margin or fail financing. We expect our operating activities going forward to generate adequate cash flows to fund normal operations, including any dividends paid pursuant to our dividend policy. However, we believe that there are a significant number of capital intensive opportunities for us to maximize our growth and strategic position, including, among other things, acquisitions, strategic alliances and joint ventures potentially involving all types and combinations of equity, debt and acquisition alternatives. As a result, we may need to raise additional funds to:

- increase the regulatory net capital necessary to support operations;
- support continued growth in our businesses;
- effect acquisitions, strategic alliances, joint ventures and other transactions;
- develop new or enhanced products, services and markets;
- refinance existing debt, including the Borrowing; and
- respond to competitive pressures.

Acquisitions and financial reporting obligations related thereto may impact our ability to access capital markets on a timely basis and may necessitate greater short-term borrowings in the interim. This may impact our credit rating or the interest rates on our debt. We may need to access short-term capital sources to meet business needs from time to time, including, but not limited to, conducting operations; hiring or retaining brokers, salespeople, managers and other front-office personnel; financing acquisitions; and providing liquidity, including in situations where we may not be able to access the capital markets in a timely manner when desired by us. Accordingly, we cannot guarantee that we will be able to obtain additional financing when needed on terms that are acceptable to us, if at all.

As announced earlier, on February 9, 2017 the Company confidentially submitted a draft registration statement on Form S-1 with the SEC relating to the proposed initial public offering of the Class A common stock of a newly formed subsidiary that will hold NKF, the Company's Real Estate Services business. The number of Class A shares to be offered and the price range for the proposed offering have not yet been determined. The initial public offering is part of the Company's plan to separate its Real Estate Services business into a separate public company. Following some period after the expected offering, the Company may, subject to market and other conditions, distribute the shares that the Company will hold of the newly formed subsidiary pro rata to the Company's stockholders in a manner intended to qualify as tax-free for U.S. federal income tax purposes.

On June 28, 2013, upon completion of the Nasdaq transaction, we received cash consideration of \$750 million paid at closing, plus an earn-out of up to 14,883,705 shares of Nasdaq common stock to be paid ratably in each of the fifteen years following the closing. As a result of the earn-out, we expect to receive over \$822 million in additional Nasdaq stock over time (stock value based on the August 31, 2017 closing price), which is not reflected on our balance sheet. As of June 30, 2017, our pro forma liquidity, which we define as cash and cash equivalents, reverse repurchase agreements, marketable securities and securities owned, less securities loaned and repurchase agreements, was approximately \$709.2 million. This does not include the over \$822 million in additional Nasdaq stock that we expect to receive over time. We expect to use our considerable financial resources to repay debt, profitably hire, make accretive acquisitions, pay dividends, and/or repurchase shares and units of BGC, all while maintaining or improving our investment grade rating.



BGC Partners Completes Acquisition of Berkeley Point
Company Takes Minority Stake in a New Real Estate Finance and Investment Business
BGC Also Closes Debt Financing of \$975 Million

NEW YORK, NY – September 8, 2017—BGC Partners, Inc. (NASDAQ: BGCP) (“BGC Partners”, “BGC”, or the “Company”), a leading global brokerage company servicing the financial and real estate markets, announced today that it has completed the previously announced acquisition of Berkeley Point Financial LLC¹ for \$875 million.

Management Comments

Howard W. Lutnick, Chairman and Chief Executive Officer of BGC Partners, said: “We believe that the addition of Berkeley Point will dramatically increase the scale and scope of Newmark.² We expect the combination of Berkeley Point, a top five GSE multifamily lender, ARA, our top three multifamily capital markets business, and our fast-growing commercial mortgage brokerage business to generate substantial revenue synergies across our businesses.

“We are also pleased to announce our new Credit Agreements. With broad-based support from leading banks, we have financed this transaction, as well as significantly increased BGC’s revolver capacity going forward.”

Minority Investment in New Real Estate Finance and Investment Business

BGC has also completed the previously announced investment of \$100 million in cash for approximately 27 percent of the capital (the “Company Investment”) in a commercial real estate-related finance and investment business along with Cantor Fitzgerald, L.P.³ The Berkeley Point acquisition and the Company Investment (together, the “Transactions”) are expected to be immediately accretive to the Company’s earnings per share.

Berkeley Point and the Company Investment will be part of BGC’s Real Estate Services segment.

Credit Agreements

In connection with the Transactions, the Company has entered into two credit agreements (the “Credit Agreements”) with participating financial institutions. The first Credit Agreement makes available to BGC a \$400 million two-year unsecured senior revolving credit facility (the “Revolving Credit Facility”). The second Credit Agreement provides for a \$575 million unsecured senior term loan (the “Term Loan Facility”) maturing on the second anniversary of the BPF acquisition closing date. The interest rates of the Credit Agreements are LIBOR plus 225 basis points, subject to adjustments based on pricing grids dependent on the Company’s credit ratings with Standard & Poor’s and Fitch. The Credit Agreements also contain certain other customary financial covenants.

On September 8, 2017, the Company drew \$400 million under the Revolving Credit Facility and \$575 million under the Term Loan Facility (together, the “Borrowing”). BGC utilized the funds, together with cash on hand, to finance the Transactions, and to pay expenses related to the Transactions and the financing. A portion of the Borrowing was also used to repay in full the outstanding balance of \$150 million under the Company’s previously existing revolving credit agreement, dated as of February 25, 2016. BGC expects to repay the Borrowing from future financing arrangements, existing financing sources, cash on hand, and/or future equity issuances. The Term Loan Facility is also subject to mandatory prepayment, with 100% of net cash proceeds of all material asset sales and debt and equity issuances, subject to certain customary exceptions.

¹ The acquisition of Berkeley Point Financial LLC includes its wholly owned subsidiary Berkeley Point Capital LLC, which together may be referred to as “Berkeley Point” or “BPF”.

² “Newmark” may be used interchangeably with “Newmark Knight Frank”, “NKF”, and the Company’s “Real Estate Services” business or segment.

³ Cantor Fitzgerald, L.P. and/or certain of its affiliates or subsidiaries are collectively referred to as “Cantor”, while the commercial real estate-related finance and investment business may be referred to as the “Real Estate LP”.

Bank of America Merrill Lynch acted as the left side joint lead arranger, joint bookrunner and administrative agent for the Credit Agreements. Banks acting as joint lead arrangers, joint bookrunners, and syndication agents are: Goldman Sachs Bank USA; Citigroup Global Markets Inc.; Capital One, N.A.; and PNC Bank, N.A. Additional banks participating in the Credit Agreements are: Mizuho Bank, Ltd. (also a syndication agent); Industrial and Commercial Bank of China Ltd. (also the documentation agent); Stifel Bank & Trust; BMO Harris Bank N.A.; Regions Bank; Associated Bank, N.A.; and BankUnited, N.A.

Additional Information

See the Company's press release and investor presentation, both dated July 18, 2017, as well as BGC's Current Report on Form 8-K filed with the Securities and Exchange Commission (the "SEC") on July 21, 2017 for previously disclosed information about the Transactions. Additional information about the Transactions and the Credit Agreements will be included in SEC filings expected to be made by BGC in the next few days. All of this information will be available at ir.bgcpartners.com.

Sandler O'Neill & Partners, L.P. served as financial advisor to the Special Committee of the Board of Directors of BGC (consisting of all four of BGC's independent directors) in connection with the Transactions, and Debevoise & Plimpton LLP served as legal advisor to the Special Committee. Cantor Fitzgerald & Co. served as Cantor's financial advisor in connection with the Transactions, and Wachtell, Lipton, Rosen & Katz served as Cantor's legal advisor.

This press release does not constitute an offer to sell or the solicitation of an offer to buy any securities.

Discussion of Forward-Looking Statements

Statements contained or incorporated by reference herein regarding BGC, Berkeley Point, the Real Estate LP, the Berkeley Point acquisition, the Company Investment, the Credit Agreements or the Borrowing that are not historical facts are "forward-looking statements" that involve risks and uncertainties, which could cause actual results to differ from those contained in the forward-looking statements. Factors that could cause actual results to differ from those contained in the forward-looking statements include, but are not limited to: the possibility that there may be an adverse effect or disruption from the Berkeley Point acquisition, the Company Investment, the Credit Agreements or the Borrowing that negatively impacts BGC's businesses; the possibility that the anticipated benefits of the Transactions to BGC may not be realized as presently contemplated or at all; and the possibility that changes in interest rates, commercial real estate values, the regulatory environment, the effects of weather events or natural disasters, pricing or other competitive pressures, and other market conditions or factors could cause the results of BGC or Berkeley Point to differ from the forward-looking statements contained or incorporated by reference herein. For a discussion of additional risks and uncertainties, which could cause actual results to differ from those contained in the forward-looking statements, see BGC's SEC filings, including, but not limited to, the risk factors set forth in the most recent Form 10-K and any updates to such risk factors contained in subsequent Forms 10-Q or Forms 8-K. Except as required by law, BGC undertakes no obligation to update any forward-looking statements.

About BGC Partners, Inc.

BGC Partners is a leading global brokerage company servicing the financial and real estate markets. BGC owns GFI Group Inc., a leading intermediary and provider of trading technologies and support services to the global OTC and listed markets. The Company's Financial Services offerings include fixed income securities, interest rate swaps, foreign exchange, equities, equity derivatives, credit derivatives, commodities, futures, insurance brokerage, and structured products. BGC provides a wide range of services, including trade execution, broker-dealer services, clearing, trade compression, post trade, information, and other services to a broad range of financial and non-financial institutions. Through brands including FENICS, BGC Trader, Capitalab, Lucera, and FENICS Market Data, BGC offers financial technology solutions, market data, and analytics related to numerous financial instruments and markets.

Real Estate Services are offered through brands including Newmark Knight Frank, Newmark Cornish & Carey, Berkeley Point, ARA, Computerized Facility Integration, Newmark Knight Frank Valuation & Advisory, and Excess Space. Under these names and others, the Company provides a wide range of commercial real estate services, including leasing and corporate advisory, investment sales and financial services, consulting, project and development management, property and facilities management, the origination and sale of multifamily loans through government-sponsored and government-funded loan programs, as well as the servicing of commercial real estate loans, including those it originates.

BGC's customers include many of the world's largest banks, broker-dealers, investment banks, trading firms, hedge funds, governments, corporations, property owners, real estate developers, and investment firms. BGC's common stock trades on the NASDAQ Global Select Market under the ticker symbol (NASDAQ: BGCP). BGC also has an outstanding bond issuance of Senior Notes due June 15, 2042, which trade on the New York Stock Exchange under the symbol (NYSE: BGCA). BGC Partners is led by Chairman and Chief Executive Officer [Howard W. Lutnick](#). For more information, please visit <http://www.bgcpartners.com>. You can also follow the Company at <https://twitter.com/bgcpartners> and/or <https://www.linkedin.com/company/bgc-partners>.

BGC, BGC Trader, GFI, FENICS, FENICS.COM, Besso, Sunrise, Capitalab, Swaptioniser, ColleX, Newmark, Grubb & Ellis, Berkeley Point, ARA, Computerized Facility Integration, Landauer, Lucera, Excess Space, Excess Space Retail Services, Inc., and Grubb are trademarks/service marks, and/or registered trademarks/service marks and/or service marks of BGC Partners, Inc. and/or its affiliates. Knight Frank is a service mark of Knight Frank (Nominees) Limited.

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